



## CITY OF SOUTH PASADENA

POLICE DEPARTMENT

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### MEMORANDUM

TO: Timothy Patrick Green

FROM: Hilary Straus, Assistant City Manager *HS*

DATE: August 29, 2013

RE: NOTICE OF TERMINATION

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#### I. NOTICE OF TERMINATION

The purpose of this Memorandum is to advise you that effective August 29, 2013 at 0001 hours, you are terminated as a City of South Pasadena Police Officer. This Notice of Termination is based on the following content.

#### II. THE PREDISCIPLINARY MEETING PROCESS

Pursuant to Rule 11.6 of the City of South Pasadena's ("City") Personnel Rules and Regulations and *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, you were provided with a First Amended Notice of Intent to Terminate Employment which set forth Police Chief Miller's first amended and preliminary determination that you be terminated from your employment as a police officer with the City. Although not mandated by the Personnel Rules and Regulations or *Skelly*, as an excess of care you were served with the First Amended Notice of Intent to Terminate Employment in view of recent communications that had been received by the City after the June 24, 2013 initial disciplinary (*Skelly*) meeting in this matter. The disciplinary meeting material resulting in issuance of the First Amended Notice of Intent to Terminate Employment consisted of material generally prepared by you/your attorney.

By means of correspondence dated August 12, 2013, you/your attorney wrote to City-affiliated attorney Elizabeth Kessel and in pertinent part asked to continue the August 15, 2013 disciplinary meeting that regarded the First Amended Notice of Intent to Terminate Employment.

Human Resources Manager Ko wrote to you by means of a letter dated August 14, 2013, advised that the disciplinary meeting had thus been continued to Monday, August 27, 2013 at 11:30 a.m. and that there would be no further continuances.

Additionally, Ms. Ko referenced the part of your August 12, 2013 letter which indicated that:

"... Pat Green is also represented by Peter Horton in connection with Police Department procedures and employment."

In reply, Ms. Ko noted in her August 14, 2013 letter to you that"

"... the City is entitled to know precisely whom is representing Mr. Green regarding the pending administrative Notice of Intended Disciplinary action. Your correspondence indicates that Mr. Green is '...also represented by Peter Horton in connection with Police Department procedures and employment.' Does this mean that you represent Mr. Green in connection with possible civil matters and that Mr. Horton 'also represents Mr. Green, 'but only as to internal matters? Again, clarification is mandated.'"

It was not until correspondence dated and served by email on August 23, 2013, that any attorney representing Mr. Green responded to both the First Amended Notice of Intent to Terminate Employment and Ms. Ko's August 14, 2013 letter. You/your attorney wrote to City-affiliated attorney Elizabeth M. Kessel on August 23, 2013 and in pertinent part indicated that:

"This letter is in response to Chief Miller's memo of August 2, 2013 [the First Amended Notice of Intent to Terminate Employment], directed to my client Timothy Patrick Green. I found nothing of a factual nature in this First Amended Notice of Intent to Terminate Employment that was not contained in prior notices, with the exception of my letters, which are not evidence. The Memo asks for either a written or oral response to the Assistant City Manager, Mr. Straus. Please accept this letter as Officer Green's written response.

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Chief Miller has made clear that he has no interest in hearing the facts that would contradict his reliance upon Captain Kowaltschuk's conclusions. There is no point in my client appearing for another round of meetings that have no purpose, other than the opportunity for additional harassment . . . ."

Regardless, the entire content of your August 23, 2013 correspondence has been considered, albeit I find that it does not set forth a basis for modifying Chief Miller's First Amended Notice of Intent to Terminate Employment.

Therefore, and pursuant to City Personnel Rule 11.6(c)(d) I am now issuing this Final Notice of Discipline (Termination.)

Administrative appeal procedures shall be set forth at the conclusion of this Notice of Termination. Thus, I base this Notice of Termination on the following:

### **III. RULES AND REGULATIONS VIOLATED**

This Notice of Termination is based upon my determination that you have committed the following violations of the Police Department Duty Manual and City's Personnel Rules and Regulations. Please note that your commission of any one of the following violations, standing alone, would support a decision to terminate your employment. A decision to terminate your employment need not be based upon a finding or conclusion that you committed multiple rule violations and/or that you violated all of the rules set forth below.

#### *SOUTH PASADENA POLICE DEPARTMENT DUTY MANUAL, VOLUME 4, Chapter 7*

##### *640 GROUNDS FOR DISCIPLINARY ACTION*

Disciplinary action may be taken for any cause, which may include, but not be limited to the following, insofar as they relate to the employee's ability to perform the functions required by his employment with the City:

...

- (e) Dishonesty, involving employment

##### *705.02 CANON TWO: PEACE OFFICERS SHALL BE AWARE OF AND SHALL USE PROPER AND ETHICAL PROCEDURES IN DISCHARGING THEIR OFFICIAL DUTIES AND RESPONSIBILITIES*

Peace officers shall be subject to disciplinary action for unprofessional conduct whenever:

...

- (e) They with intent to deceive or misrepresent, omit relevant facts or otherwise falsify information, testimony, or evidence which they provide in their official capacity.

#### *CITY OF SOUTH PASADENA PERSONNEL RULES AND REGULATIONS, RULE 11. DISCIPLINARY ACTIONS*

##### *Rule 11.3. Grounds for Disciplinary Action*

Disciplinary action may be taken for any cause, which may include, but not be limited to the following, insofar as they relate to the employee's ability to perform the functions required by his employment with the City:

...

- (c) Inefficiency or inexcusable neglect of duty, -i.e., failure to perform duties required of an employee within his position.

...

- (e) Dishonesty, involving employment.

...

- (m) Violation of the rules and regulations published in any department

#### IV. BACKGROUND INFORMATION

##### A. The January 31, 2012, Traffic Stop

On January 31, 2012, you were assigned to the Patrol A - Night Shift. At 0459 hours, on Rollin Street, immediately west of Fair Oaks Avenue, you initiated a traffic stop on a black [REDACTED], California license plate No [REDACTED]. You proceeded to walk up to the driver's door and asked the driver why he was driving so fast. The driver admitted to drinking a couple beers at a friend's house and stated he just wanted to get home. You did not ask the driver for identification or paperwork and walked back to your car. Approximately one minute after informing dispatch of the traffic stop, you informed dispatch that the driver was "10-8 - warned." About two minutes after you left the driver's door of the suspect vehicle, the driver of the car fled from the area and drove home.

##### B. [REDACTED] Confession That He Fled the Scene

The person you had stopped, [REDACTED], had been involved in a hit and run traffic accident in the City of Pasadena several minutes prior to your stop. The Department became aware of this fact only after [REDACTED] voluntarily came to the police station on January 31, 2012, at 1200 hours. [REDACTED] said he felt guilty and wanted to turn himself in for running from a police officer earlier in the morning.

[REDACTED] initially spoke with [REDACTED] and gave a description of the officer who stopped him earlier that morning. [REDACTED], when giving the information to [REDACTED], said that [REDACTED] described "Officer Green to a T."

[REDACTED] then spoke with [REDACTED]. [REDACTED] reported to [REDACTED] that the officer asked him why he was driving so fast. [REDACTED] said he was not asked to provide a license or other paperwork. He said the officer never came back and he decided to drive home. When asked if the officer gave him any indication he could leave, [REDACTED] replied "no." When asked if the officer



was still there when he drove away, [REDACTED] reported that the car was still there with the lights on.

Later that day, after approximately 1800 hours. Sergeant Craig Cooper conducted a follow up interview of [REDACTED]. While [REDACTED] was sitting in the Watch Commander's office, you knocked on the door and showed Sergeant Cooper a bag of evidence from an earlier unrelated call. After Sergeant Cooper finished speaking with you and closed the door, [REDACTED] pointed towards you and said, "that's the officer who stopped me."

Based upon [REDACTED] report, and because the nature of his contact with you was unclear, an investigation, I.A. Case Number 2012-02, was opened to determine if you engaged in any misconduct by your actions that morning.

**C. The February 1, 2012, Internal Affairs Interview**

Sergeant Cooper interviewed you on February 1, 2012, at approximately 0030 hours. During your interview, you said that you stopped a car for speeding and it stopped at Fair Oaks Avenue and Rollin Street. You also stated that you did not smell any alcohol on [REDACTED] breath due to the fact you never got close enough to do so. You also said you would not be able to identify the driver of the car you stopped if you saw him again, nor did you notice the front end damage to his car, because, contrary to what [REDACTED] reported, you said you never passed the rear bumper of [REDACTED] vehicle and just yelled towards him to slow down and drive safe.

You said you were more concerned about some suspicious subjects you saw at the middle school. You indicated that, after yelling at [REDACTED], you entered your patrol vehicle and backed up onto Fair Oaks Avenue to look for the suspicious subjects. Although you felt the two alleged subjects were suspicious, you did not inform dispatch of the two suspicious persons, did not tell dispatch that you were looking for two suspicious people, and did not request assistance to search for them as is routine, especially during hours of darkness. You were not able to locate the two suspicious subjects.

**D. The April 2, 2012, Follow Up Internal Affairs Interview**

On April 2, 2012, at approximately 2330 hours, you sat for a follow up interview with Sergeant Cooper. In this interview, you were asked if you had any of your overhead lighting on during the traffic stop. You said that you did not have your overhead take down lights on, nor did you have your spot lights turned on. You said you only had your overhead emergency lights on. Sergeant Cooper then asked where you were standing during the traffic stop. You stated that you were standing by the rear driver side quarter panel. When asked why you didn't activate your spot lights or take down lights, you indicated that you were only going to tell the driver to slow down due to your concern about the two subjects at the middle school.

#### **E. Adjudication of IA 2012-02**

Upon completion of Sergeant Cooper's investigation, Captain Richard Kowaltschuk recommended sustaining three allegations of misconduct against you based upon your actions during the January 31, 2012, traffic stop, as well as statements you made during your interviews.

First, Captain Kowaltschuk recommended sustaining the allegation that you failed to perform your duty by neglecting to investigate a possible incident of driving under the influence, despite [REDACTED] admission to you that he had been drinking. A thorough investigation may have revealed that [REDACTED] had been involved in a hit and run traffic accident in the City of Pasadena several minutes prior to your stop.

Captain Kowaltschuk also recommended sustaining a second allegation that you were dishonest during your initial interview on February 1, 2012, when you said you never passed the rear bumper of [REDACTED] vehicle and just yelled towards him to slow down and drive safely. Your statements were directly contradicted by [REDACTED] who indicated he spoke with you as you stood at his driver's door, and the fact [REDACTED] was able to describe you "to a T" and identify you at the police station. Captain Kowaltschuk's recommendations were further supported by the fact that, at a mock traffic stop made at the same location under similar lighting conditions as your stop of [REDACTED], Captain Kowaltschuk was unable to identify the officer's face until the officer was standing at the door post behind the driver's seat.

Finally, Captain Kowaltschuk recommended sustaining a third allegation that you were dishonest with Sergeant Cooper during your follow-up interview on April 2, 2012<sup>1</sup>, when you again stated that you were standing by the rear driver's side quarter panel of [REDACTED] vehicle.

#### **F. Imposition of Six Day Stayed Suspension**

Following service of a Notice of Intent to impose a six (6) day suspension regarding the foregoing, you met with Chief Joseph Payne on January 7, 2013, for a *Skelly* conference. Based upon the discussions at the *Skelly*, Chief Payne agreed to stay the six day suspension pending your successful completion of certain training to and a performance improvement plan. This informal action was memorialized in a January 25, 2013, letter from Chief Payne. This event is discussed and critiqued in detail below.

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<sup>1</sup> In discussing this allegation, Captain Kowaltschuk's adjudication memorandum erroneously indicates that the follow-up interview occurred "on 2-02-12 at approximately 2230 hours." However, the follow-up interview in fact took place on April 2, 2012, as reflected elsewhere in Captain Kowaltschuk's memorandum as well as in Sergeant Cooper's investigative memorandum.

**V. FACTUAL BASES FOR THE ACTION (Incorporating Information from Section IV, above)**

This disciplinary decision is not and need not be reasonably based on a finding by me or any future reviewing person or body, that each of the following causes exist for your termination. The existence of any one of the following causes would reasonably support my decision.

**A. You Were Dishonest and Misrepresented Facts In Responding to Questions During Your April 2, 2012, Follow-Up Interview.**

During your April 2, 2012, follow-up interview, Sergeant Cooper asked you where you were standing during [REDACTED] traffic stop. You said you were standing by the rear driver side quarter panel of his car. You also stated that you were only going to tell the driver to slow down due to your concern about two subjects at the middle school.

Your statement on April 2, 2012, as to where you were standing relative to [REDACTED] car was contradicted both by [REDACTED] statements as well as your own statements made during your initial interview on February 1, 2012. During your initial interview on February 1, 2012, you told Sergeant Cooper that you never passed the rear bumper of [REDACTED]. That was your explanation as to why you did not smell alcohol on [REDACTED] breath, why you would not be able to identify [REDACTED], and why you never saw the front end damage to Mr. [REDACTED] vehicle. [REDACTED] stated during his interview that you were standing at his driver side door when he engaged you in conversation and admitted that had been drinking and driving and he was speeding because he just wanted to get home.

Your statement that you were more concerned about two suspicious subjects you allegedly saw at the middle school was also likely false given that, despite your alleged concern about these individuals, you did not inform dispatch of the two suspicious persons, did not tell dispatch that you were looking for two suspicious people, and did not request assistance to search for them as is routine, especially during hours of darkness.

Your April 2, 2012, statements were dishonest and constituted false information in your official capacity, given with the intent to deceive. (*South Pasadena Police Department Duty Manual*, Vol. 4, Chapter 7, Sections 640, subdivision (e) [dishonesty involving employment], and 705.02, Canon Two, subdivision (e) [providing false information in official capacity]; *City of South Pasadena Personnel Rules and Regulations*, Rule 11.3, subdivisions (c) [failure to perform duties required of an employee within his position], (e) [dishonesty involving employment] and (m) [Violation of rules published in any department].)

## VI. ANALYSIS

In *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, 218, the California Supreme Court held that in considering the propriety of public employee disciplinary action:

[T]he overriding consideration in these cases is the extent to which the employee's conduct resulted in, or if repeated is likely to result in harm to the public service.... Other relevant factors include the circumstances surrounding the misconduct and the likelihood of its recurrence.

Police officers are held to the highest standards of conduct. (See *Ackerman v. State Personnel Board* (1983) 145 Cal.App.3d, 395, 400.) A police officer is expected to tell the truth at all times (*Id.* at 391), and credibility and honesty are essential traits of a law enforcement professional. (*Id.*) Conversely, dishonesty is an intolerable flaw in a law enforcement officer. (See *Kolender v. San Diego County Civil Service Comm'n* (2005) 132 Cal.App.4th 716.)

Dishonesty renders a police officer unable to perform one of the essential functions of the job, i.e., to testify truthfully and competently in a court of law. Because the records of an officer's dishonesty are potentially discoverable both pursuant to a *Pitchess* motion under *Evidence Code* sections 1043-1045, and pursuant to *Brady v. Maryland* (1963) 373 U.S. 83, it is reasonable to assume that your dishonesty during your investigative interview will render you utterly ineffective as a prosecution witness. (*Id.*; *United States v. Bagley* (1985) 473 U.S. 667.)

Termination from employment is the appropriate disciplinary action for dishonesty by a police officer even in instances where an officer was a long-term employee with little or no record of prior discipline. (See *Nicolini v. Tuolumne* (1987) 190 Cal.App.3d 619 [upholding termination of a deputy sheriff for dishonesty where deputy had nine years of service and no prior discipline]; *Paulino v. Civil Service Commission* (1985) 175 Cal.App.3d 962 [upholding discharge of police officer for falsely reporting sick leave].)

With these principles in mind, I have terminated your employment because a preponderance of the evidence demonstrates that you made dishonest statements to Sergeant Cooper during your follow-up interview on April 2, 2012.

Not only was your April 2, 2012, statement as to where you were located relative to [REDACTED] car grossly inconsistent with [REDACTED] account, but it was also inconsistent with your own prior statement made during your initial interview on February 1, 2012. [REDACTED] account—wherein he stated he spoke with you as you stood by his door, and admitted to driving after having consumed a couple of beers—appears to be the more credible version of events. [REDACTED] was able to describe you to [REDACTED], he affirmatively identified you when he was at the station, and, based upon Captain Kowaltschuk's investigation, [REDACTED]

██████ likely would not have been able to do either had you remained by the driver's side quarter panel as you claim.

Furthermore, a preponderance of the evidence indicates you lied about being more concerned about two suspicious subjects at the middle school. Although you allegedly felt the two purported subjects were suspicious, you did not inform dispatch of the two suspicious persons, did not tell dispatch that you were looking for the suspicious persons, and did not request assistance to search for them as is routine, particularly during hours of darkness. This is completely contrary to how a suspicious person call is handled. At the conclusion of the stop, you simply told dispatch that you were clearing the traffic stop and that you had warned the driver. Given that you were already on the radio with dispatch, that would have been the time where you would have informed dispatch of your intent to locate the two suspicious persons. The fact you did not mention anything about the suspicious subjects to dispatch strongly suggests that there were no such suspicious subjects and that your statement about their existence was false.

Unlike ██████, who had absolutely no incentive to lie about the circumstances of the stop, you had a particularly strong incentive to be dishonest. It is my belief that you made your dishonest statements during your follow-up interview on April 2, 2012, in an effort to cover up for the fact you neglected to investigate ██████ for driving under the influence. A review of your disciplinary record indicates that this is not the first incident where you failed to take appropriate action in the performance of your duty. You had previously received a one-day suspension for failing to properly investigate a hit and run traffic accident where the suspect was identified. (See Personnel Complaint, I.A. 2009-03.)

Although this Notice of Termination of your employment is based solely upon your most recent act of dishonesty, your disciplinary history and the earlier findings that you were dishonest and neglected to take appropriate action all support my conclusion, under *Skelly*, that the dishonesty of the sort exhibited on April 2, 2012, is very likely to recur. It is worth pointing out that during prior *Pitchess* motions regarding your disciplinary history, the judges reviewing the internal investigation files each commented on your history by asking if the Department recognized it had a problem with you. This most recent incident of dishonesty can only compound these previously existing issues.

I am cognizant of the fact that the allegation of misconduct relating to your April 2, 2012, statements (at least with respect to your position relative to ██████ vehicle) was previously encompassed within the prior disciplinary determination by former Chief Payne. However, the Constitutional concept of double jeopardy does not apply to employment decisions. Furthermore, it is within my power to determine that the earlier discipline (which remains pending) was too lenient. (See, *Ziegler v. City of South Pasadena* (1999) 73 Cal.App.4th 391, 397.) (See discussion and critique, below.)

Given the circumstances surrounding your dishonesty, and the high likelihood of recurrence and the obvious harm to the public service, it is my belief that your misconduct warrants termination of your employment.

## **VII. ASSESSMENT OF THE PROCEDURAL HISTORY IN THIS MATTER**

It would be a dereliction of my responsibilities to not address the unique and circuitous procedural and substantive history that has preceded this Notice of Termination. At least one of your two attorneys (Morse Taylor) has indicated in prior administrative interactions that you believe it is unlawful for the City to disregard the January 25, 2013 letter sent to you by former Chief of Police Joseph Payne ("Payne"), and which impose a "stayed" six day suspension upon you as regards the above incident. It is essential that a future reviewer of this matter understand that the prior writings and arguments made by you have not been ignored and that they have been properly determined as not modifying the present decision that you be terminated.

### **A. The November 19, 2012 Notice of Intent to Discipline**

By means of correspondence dated November 19, 2012, Payne assessed the above matter and provided you with notice of his intent to impose a six (6) working day suspension as a result of his findings that the investigative materials described above justified a determination that you had engaged in a neglect of duty. In pertinent part, Payne determined that you failed to conduct a proper traffic stop, and that had it been properly conducted, it would have provided sufficient evidence of a DUI and a hit and run having occurred. The former Chief also specifically found that you, "... failed to be diligent during your traffic stop at a time of the morning and under circumstances that would have lead a reasonable officer to suspect DUI or to discover damage to vehicle that had moments earlier been involved and [sic] a traffic accident and subsequent hit and run."

Of import, the former Chief's November 19, 2012 Notice of Intent to Discipline specifically determined that allegations sustained by Captain Kowaltschuk to the effect that you had been dishonest during the administrative interviews of this matter, were not sustained. (Please keep in mind that as a matter of law, a "not sustained" finding means that there was evidence of dishonesty, but Payne determined that the evidence was insufficient to form a basis for disciplinary action. This is comparable to what happens when a District Attorney's office rejects a criminal filing because of "insufficiency of the evidence." This latter finding does not mean that there was no evidence of criminal conduct, but only that the District Attorney's office determined the evidence was insufficient to likely result in proof beyond a reasonable doubt as to criminal conduct.)

Of significant import to both my current determination that you be terminated and to the inexplicable and baseless January 25, 2013 determination by Payne that you are subject to not only a nominal six (6) day suspension, but that the suspension shall be stayed, is Payne's November 19, 2012 finding that:

"Furthermore, your explanation as to why you did not investigate further [referring to examination of the subject driver and the vehicle, to determine that a DUI and/or accident had occurred] makes no sense to me, to include your failure to radio into dispatch suspicious activity at the middle school or to request backup to investigate something that demands diligence. *Your reasoning as to why this interfered with your failed investigation of a DUI/Hit and Run driver is not convincing to me.* . . . Although I have some troubling concerns over how you executed this traffic stop and your reasons why you failed to follow through with this investigation (your statement in context regarding suspicious persons at the middle school **defies reason**.) I am cognizant of the consequences of dishonesty and the high threshold such a serious allegation demands." (Emphasis added.)

Based on Payne's November 19, 2012 analysis, it is self evident and literally stated that he finds that a variety of your statements are "not convincing" and "defy reason." Nonetheless, for reasons that are unclear, the former Chief chose to ignore the inescapable product of such determinations, namely that you were dishonest during the investigation process.

The above being said, the November 19, 2012 Payne letter does shed light upon why he apparently chose to ignore your acts of dishonesty. In this regard, the former Chief wrote:

" . . . I am cognizant of the consequences of dishonesty. . . . "

In this regard, I can advise, based upon my experience in the public sector profession, that the "consequences" of dishonesty are precisely what you are reading in this Notice of Termination, namely likely termination from the law enforcement profession. For inexplicable reasons, Payne did not want to dismiss you, even though the evidence presented to him supported such a determination.

#### **B. The January 25, 2013 Payne Notice of Disposition**

Given the above November 19, 2012 analysis prepared by Payne, I have tried to better understand how the former Chief's November 19, 2012 memorandum morphed into an even less severe punitive action whereby your already meager six (6) day suspension was stayed. The January 25, 2013 memorandum from the former Chief *and subsequent documents/communications which will be addressed below*, shed light on how the January 25, 2013 memorandum was arrived at.

As indicated above, the November 19, 2012, Payne memorandum evidences his avoidance of addressing Captain Kowaltschuk's findings that you were dishonest, by indicating that he was cognizant of the consequences to your career if he, himself, determined you were dishonest. You would be effectively barred from the profession. Thus, I see that Chief Payne focused upon an

artificial means of preserving your employment by ignoring the well-founded findings of Captain Kowaltchuk that you had been dishonest during the investigative process.

Already being disposed to providing you with a shield from your misconduct, the January 25, 2013 Payne letter includes the following language:

“On your own admission, you acknowledged that you battle with Attention Deficit Disorder and Dyslexia. Not being a professional diagnosis and my own lack of professional knowledge, it is imperative that, through the assistance of the Human Resources Department, you undergo, at the City’s expense, a professional diagnosis of any conditions that may be identified that limit your ability to investigate and properly document the typical investigation that a South Pasadena police officer may be called on to complete. . . . This is our best effort to correct your learning deficiencies and make you a better officer.”

It thus appears that the former Chief’s analytical process in determining in the first instance that you were not dishonest, and in the second instance determining that imposition of a monetary remedial penalty is inappropriate, were both based on issues unrelated to your conduct during the incident in question. On the one hand, Chief Payne did not want to make a finding that would have resulted in your dismissal from the police department and in the second instance, Chief Payne apparently determined that your conduct during the incident in question was impacted/excused because, “. . . you battle with attention deficit order and dyslexia.”

Chief Payne retired from the City on February 22, 2013. Upon reviewing the personnel files of the police department staff, the above issues were discovered by his successor, Chief of Police Miller.

**C. Invitation To Interactive Process Meeting and Related Documents**

In addition to that review of your file resulting in issuance of the initial Notice of Intent to Terminate Employment, you were also issued a July 9, 2013 Invitation to Interactive Process Meeting.

As that document displayed, given that a review of Payne’s January 25, 2013 document sent to your attention reveals Payne’s representation that you have admitted that you “battle with attention deficit disorder and dyslexia,” the City determined that the interactive disability accommodation process would be appropriate. Thus, the July 9, 2013 invitation to such a meeting was presented to you.



In reply to the City's Invitation, one of your two lawyers, Morse Taylor, wrote a July 15, 2013 letter to City-defense counsel Elizabeth M. Kessel. In pertinent part, your attorney stated:

"My client denies that he has a disability that requires an accommodation for him to perform his duties as a police officer. ***He has performed those duties satisfactorily for 18 years without a suspension or a reprimand during that time.*** He does not deny that he has ADD or dyslexia, however, ***he did not tell Chief Payne that he "battled with ADD and dyslexia."*** That language came from Chief Payne. . . ." (Emphasis added.)

Mr. Taylor sought to reschedule the meeting and it was in fact temporarily off calendar. Following additional attempts by the City to conduct an interactive process with you, Mr. Morse once again wrote to the City on July 19, 2013 and in pertinent part, advised Ms. Kessel that:

"The City has offered no medical evidence that Officer Green needs any accommodation to do his job functions within the police department. He has not asked for any accommodation. . . . In the event the City expects retired Chief Payne to confirm a disability, he specifically told me that he has no knowledge of any disability because that is a professional conclusion he was never prepared to make.

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For the time being, Officer Green and his attorneys will not attend the interactive process meeting for the reasons stated herein."

As can be seen from the above, it appears that former Chief Payne's disciplinary determinations regarding the subject incident were based not upon assessment of your conduct and its impact upon the law enforcement profession, but instead, upon concern regarding how a finding of dishonesty would impact your career and upon a baseless determination that you "battle with ADD and dyslexia." It is the position of your counsel as stated in his July 15, 2013 letter to Ms. Kessel, that you have performed your duties satisfactorily for 18 years, presumably not being impacted by ADD or dyslexia or any learning or other possible deficits.

#### **D. The Alleged Contract Between You and Former Chief Payne**

Regardless of the above, and as alluded to both during the June 24, 2013 pre-disciplinary meeting in this matter and in attorney Morse Taylor's July 19, 2013 letter to Ms. Kessel's attention, it is your position that the January 25, 2013 letter from former Chief Payne to you (cosigned by you on January 28, 2013) is a "contract" which limits disposition of the above matter to the stayed six (6) day suspension referenced in that letter.

It is my position that the January 25, 2013 Payne letter does not constitute a "contract." First, it is clear law that a contract is voidable where it is the result of a mistake of fact. It is self evident from a review of the January 25, 2013 Payne letter that he believed you "battled with attention deficit disorder and dyslexia" and he held out the baseless view that such "battle" would limit your ability to investigate and properly document typical investigations (in spite of your attorney claiming that in the past 18 years, there has been no such impact.)

As seen in the above letters from your lawyer, you claim to have never told Chief Payne that you "battled with ADD and dyslexia," and your lawyer makes it very clear that you have no disability or deficit requiring an accommodation for you to perform your duties as a police officer. As Mr. Taylor indicates, it is your perception that you have performed your duties satisfactorily for 18 years.

**E. Impact of *Zeigler v. City of South Pasadena***

During the initial pre-disciplinary meeting in this matter, there was also indication by you that to allow imposition of disciplinary action in excess of that addressed by former Chief Payne (in reality, Payne imposed no discipline) would constitute impermissible placement of you in "double jeopardy."

As indicated in the *Zeigler* case (coincidentally also arising in connection with a South Pasadena police officer,) "The constitutional concept of double jeopardy does not apply to employment decisions." *Zeigler v. City of South Pasadena* (1999) 73 CA 4 391, 397.

In the *Zeigler* matter, a termination was allowed, "... based upon additional elements which were not present at the time Zeigler was released from probation (the prior action.)" (73 CA 4 398.)

Here, the above analysis by me makes it clear that there are indeed "additional elements" considered by me that were not properly considered by the former Chief. Based upon the recent correspondence from attorney Morse Taylor, it is self evident that a "disability" was not a factor in your conduct in the matter under consideration. Without basis, Payne apparently believed to the contrary. Second, Chief Payne apparently gave more consideration to your ability to continue with your employment as a police officer, than to the impact your dishonesty had upon the profession that he seemed determined to allow you to continue in.

Considering all of the above factors, it is my determination that this Notice of Termination shall now properly issue.

**VIII. DOCUMENTS IN SUPPORT OF THE DISCIPLINE**

The materials upon which the initial and First Amended Notice of Intent to Terminate Employment was based, have already been provided to you and are deemed incorporated herein by reference as though set forth in full. Those

documents will not be reattached. Your Personnel file and evaluation history have also been considered and are not attached but are available for your review by making an appointment to do so with the Human Resources Department.


#### **IX. APPEAL RIGHTS**

Pursuant to City Personnel Rule 12.1 you may appeal this termination decision by filing with the Human Resources Department a written request for appeal, not later than five (5) working days after service of this Notice upon you or your attorney. Failure to file a timely written appeal shall result in you being barred from challenging my decision in any administrative or civil proceeding. A copy of Personnel Rule 12 is attached for your review.

**Attachments:** City Personnel Rule 12.

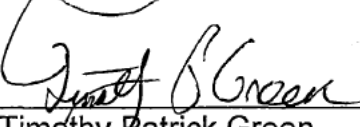
#### **ACKNOWLEDGMENT OF RECEIPT**

On 8/29/13, I witnessed the personal delivery of this Notice of Termination to Officer Timothy Patrick Green.

By:  #161 SGT JIM VALENCIA

I acknowledge receiving this Notice of Termination on

8-29-13  
Date

  
Timothy Patrick Green

Served by email, first class, certified, return receipt requested mail on attorneys Morse Taylor ([morsetaylor@gmail.com](mailto:morsetaylor@gmail.com)) / 3213 Bayshore Drive, Westlake Village, California 91361

And

Peter Horton ([Horton@policeattorney.com](mailto:Horton@policeattorney.com)) / 367 North Second Avenue, Upland, California 91786

- (c) After considering the employee's response to the notice of intended action, the person hearing the response shall make a recommendation to the City Manager. The City Manager shall review the recommendation, the information which formed the basis for the action, and the employee's response. The City Manager shall issue a final notice affirming, modifying or rejecting the intended discipline. If the final notice imposes discipline it shall set forth the effective date of the discipline.
- (d) The final notice shall be sent by registered mail to the last known address of the employee. It shall be the responsibility of the employee to inform the City of his/her address. If the notice is not deliverable because the employee has moved without notifying the City or the employee refuses to accept delivery, the effective date of discipline shall be the date the post office attempted delivery.

#### 11.7 Waiver of Hearing

An employee recommended for disciplinary action may request in writing to the City Manager that no pre-termination hearing be held, in which case the City Manager shall affirm the discipline of the employee. Such a request by an employee shall be on a form prescribed by the Personnel Office. If within five (5) days after notification, the employee has not affirmatively requested a Pre-Determination hearing or review, such failure to request shall be construed as a waiver of all review and appeal rights, unless such failure is for reasons beyond the control of the employee.

### **RULE 12. HEARING**

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- 12.1 A regular, non-exempt employee suspended for more than three (3) days, demoted, reduced in pay or terminated may, within five (5) working days of receipt of the written notice of discipline or within five (5) working days of attempted delivery by the post office of the notice to the last known address of the employee, file with the Personnel Office a request for appeal.
- 12.2 The Personnel Office shall select a hearing officer not currently employed by the City to hear the appeal.
- 12.3 The hearing officer's decision shall be advisory to the City Manager.
- 12.4 After the selection of a hearing officer, a date shall be selected by the Personnel Office for the conduct of the hearing. The employee appealing shall be notified in writing at least two weeks prior to the hearing of the scheduled date.
- 12.5 The hearing shall be a closed hearing unless the employee requests in writing one week prior to the hearing to have a public hearing.

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- 12.6 The hearing shall be recorded, either electronically or by a court reporter at the option of the City.
- 12.7 Upon the request of either party, and upon his/her own motion, the hearing officer shall have the power to issue subpoenas to compel attendance at any hearing held under this rule.
- 12.8 Two days prior to a hearing pursuant to this rule each party shall identify to the opposing party all witnesses and documents which the party disclosing the information intends to use at the hearing. Failure to disclose a witness or document shall require its exclusion from the hearing.
- 12.9 The employee shall appear personally before the hearing officer at the time and place set for the hearing. The employee may be represented by any person he or she may select.
- 12.10 Conduct at the Hearing
- (a) All testimony shall be by oath or affirmation.
  - (b) The conduct and decorum of the hearing shall be under the control of the Hearing Officer.
  - (c) Direct and cross-examination of witnesses shall be permitted.
  - (d) Hearings need not be conducted according to technical rules relating to evidence and witnesses.
  - (e) The hearing officer shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Rules or other resolution bearing upon the matter, which has been adopted by the City Council.
- 12.11 Within thirty (30) days of the conclusion of the hearing, the Hearing Officer shall make findings with reference to the discipline imposed to the Personnel Officer; and the Personnel Officer shall forward a copy of the certified findings to the employee, the department head, and the City Manager. The City Manager shall review the findings and recommendations and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken, as appears warranted to the City Manager. The decision of the City Manager is final.
- 12.12 Reimbursement for Loss of Pay
- Reimbursement for loss of pay due to the disciplinary action which is subsequently revoked by the City Council shall be made to an employee. Said reimbursement pertains to and is confined to the period of time between the date of action by the City and ending with the date of final decision as set forth in Rule 13..12. Any compensation received by the employee from other employment during the period for
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which reimbursement is given is deductible from any City compensation payable under this section.

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**RULE 13. GRIEVANCE PROCEDURE**

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13.1 Employees shall have the right to grieve any misinterpretation, misapplication or violation of any provision of the Personnel Rules and Regulations.

13.2 Procedure

- (a) In any instances of grievance, the employee or employees adversely affected shall first make efforts to resolve such grievances with their immediate supervisor without resort to the formal filing of a grievance.
- (b) An employee with a grievance may select a representative from the City staff to assist him/her in utilizing the grievance procedure. Such representative may use a reasonable amount of work time while rendering such assistance subject to the following:
  - (1) The representative shall obtain approval of his/her immediate supervisor before spending any work time in activity related to the grievance. Approval shall be given, but shall be contingent upon the needs of the department.
  - (2) The representative may not leave his/her workstation or a work location under the supervision of other than his/her immediate supervisor without obtaining prior approval of the concerned supervisors.
  - (3) No overtime pay will be paid for any time spent in the processing of grievances.
- (c) An employee who wishes to file a grievance must do so within five (5) working days of the occurrence or within five (5) working days of the date the employee knew or should have known of the occurrence.
  - Step 1:
    - (A) The employee will present the grievance in writing to the immediate supervisor.
    - (B) The immediate supervisor will answer the grievance in writing within five (5) working days.
  - Step 2.
    - (A) An employee and/or his/her representative wishing to pursue a grievance further will, within five (5) working days, present it in writing to the department head and request an interview. The department head will then schedule an interview with the department head and the employee.
    - (B) The department head will present his/her written answer to the employee within five (5) working days of the interview.

# MORSE TAYLOR

ATTORNEY AT LAW

CALIFORNIA BAR NO. 33676  
Tel. 818-735-9560

3213 Bayshore Drive  
Westlake Village, CA 91361

email: morsetaylor@gmail.com

August 23, 2013

Elizabeth M. Kessel  
Kessel & Associates  
2410 Beverly Blvd.  
Los Angeles, California 90057

Via Email: emkessel@kesslaw.com

Re: City of S. Pasadena Memo August 2, 2013  
South Pasadena Police Dept. adv. Timothy Patrick Green

Dear Ms. Kessel,

This letter is in response to Chief Miller's memo of August 2, 2013, directed to my client Timothy Patrick Green. I found nothing of a factual nature in this First Amended Notice of Intent to Terminate Employment that was not contained in prior notices, with the exception of my letters, which are not evidence. The Memo asked for either a written or oral response to the Assistant City Manager, Mr. Strauss. Please accept this letter as Officer Green's written response.

Chief Miller's so-called factual account of the events of January 31, 2012 is the same twisted, self-serving rendition manufactured by Captain Kowaltschuk that he has chosen to believe from the outset. Craig Cooper, the investigating officer, disagrees with your conclusions, as does former Chief Payne. The word of a 19 year old boy, who acknowledges his drunken condition and could not even identify the victim of the hit and run accident immediately prior to the very limited interaction with my client has been accepted by Miller in lieu of the testimony of an 18 year, career police officer, whose life and career you Miller has now ruined by his slanderous accusations. I would urge you and Mr. Straus to read the investigating officer's report which declined to find that Officer Green lied to protect himself. Also please review the agreement made with Officer Green to accept the punishment from the Skelly hearing conducted by former Chief Payne. Finally, Government Code section 3304(f) requires the city to notify a public safety officer in writing of its decision within 30 days of its decision to impose discipline. By the time Chief Miller sent the first notice of intent to terminate he was in violation, hence this second notice of intent to terminate is also in violation and invalid.


I will withhold comment regarding Miller's citation of cases and his so-called reasoning that allegedly gives the City the right to revoke Chief Payne's findings. He is not qualified to give such opinions and I will take them up in the appropriate forum.

Chief Miller has made clear that he has no interest in hearing facts that would contradict his reliance upon Captain Kowaltchuk's conclusions. There is no point in my client appearing for another round of meetings that have no purpose, other than the opportunity for additional harassment. This would be the third meeting following the actual Skelly hearing. The two prior meetings have not produced any change in the City's position, and given Miller's hostile assumptions and opinions this third meeting offers no more. This meeting appears to be a departure from the normal administrative process and Miller is making it up as he goes to justify a malicious and unfounded attack on Pat Green's livelihood and career.

Nothing in this letter, or my client's non appearance on August 26, 2013 should be considered as a waiver of any rights to which my client is entitled as a matter of law. All rights are reserved.

Mt/sc

Very truly yours,



Morse Taylor

Cc: Pat Green  
Peter Horton  
Hillary Straus  
Mariam Lee Ko





**CITY OF SOUTH PASADENA**

1414 MISSION STREET, SOUTH PASADENA, CA 91030  
TEL: 626.403.7200  
WWW.CI.SOUTH-PASADENA.CA.US

August 14, 2013

**VIA EMAIL: MORSETAYLOR@YMAIL.COM**

Morse Taylor  
3213 Bayshore Drive  
Westlake Village, CA 91361

Re: The Pre-Disciplinary Meeting in the Matter of South Pasadena Police Officer  
Green; City Reply to Your August 12, 2013 Correspondence

Dear Mr. Taylor:

I am in receipt of a copy of your August 12, 2013 letter to City-affiliated attorney Elizabeth Kessel. In pertinent part, your correspondence seems to have been written on behalf of attorney Peter Horton, with you indicating that, "... Pat Green is also represented by Peter Horton in connection with Police Department procedures and employment." You then advise that Mr. Horton is on vacation and will return to his office on August 19, 2013. Thus, you have asked to have the August 15, 2013 pre-disciplinary meeting in this matter continued to another date.

First, the pre-disciplinary meeting shall be continued to Monday, August 26, 2013 at 11:30 a.m. ***There shall be no further continuances.*** Second, the City is entitled to know precisely whom is representing Mr. Green regarding the pending administrative notice of intended disciplinary action. Your correspondence indicates that Mr. Green is "... also represented by Peter Horton in connection with police department procedures and employment." Does this mean that you represent Mr. Green in connection with possible civil matters and that Mr. Horton "also represents Mr. Green," but only as to internal matters? Again, clarification is mandated. The City must be clearly advised which of two attorneys speaks for Mr. Green in the particular proceeding now administratively pending. Please respond prior to August 26, 2013.

As regards your inquiry as to whether or not Ms. Kessel's, "... client intends to produce witnesses . . .," etc., at the pre-disciplinary meeting. I recommend that you familiarize yourself with both *Skelly v. State Personnel Board* (1975) 15 Cal 3d 194 and the United States Supreme Court pronouncements in *Cleveland Board of Education v. Loudermill* 470 U.S. 532 (1984). The pre-disciplinary meeting shall be conducted in conformance with the dictates of those two cases. The City is aware that Mr. Horton is knowledgeable in those regards.

Sincerely,

Mariam Lee  
Human Resources Manager

cc: Elizabeth Kessel  
Peter Horton, Lackie & Dammeier

727827.1 SO140-071



## CITY OF SOUTH PASADENA

POLICE DEPARTMENT


1422 MISSION STREET, SOUTH PASADENA, CA 91030

TEL: 626.403.7270 ■ FAX: 626.403.7271

WWW.CI.SOUTH-PASADENA.CA.US

### MEMORANDUM

TO: Timothy Patrick Green

FROM: Arthur Miller, Chief of Police 

DATE: August 2, 2013

RE: FIRST AMENDED NOTICE OF INTENT TO TERMINATE  
EMPLOYMENT

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Pursuant to Rule 11.6 of the City of South Pasadena's ("City") Personnel Rules and Regulations and *Skelly v. State Personnel Board* (1975) 15 Cal. 3d 194, I am now providing you with a First Amended Notice of Intent to Terminate Employment which sets forth my first amended and preliminary determination to recommend that you be terminated from your employment as a Police Officer with the City. Although not mandated by the Personnel Rules and Regulations or *Skelly*, as an excess of care, this First Amended Notice of Intent to Terminate Employment is being served in view of relevant communications received by the City after the June 24, 2013 initial pre-disciplinary (*Skelly*) meeting in this matter. Although the post-pre-disciplinary meeting material considered by me was generally prepared by you/your attorney and is thus information within your knowledge, you are as indicated, being provided with an opportunity to participate in a second pre-disciplinary meeting given the analysis set forth in this First Amended Notice of Intent to Terminate Employment. With minor grammatical changes elsewhere, you will find that the amended information in this notice is predominately set forth in paragraph V.

#### **I. RULES AND REGULATIONS VIOLATED**

This First Amended Notice of Intent to Terminate is based upon my preliminary determination that you have committed the following violations of the Police Department Duty Manual and City's Personnel Rules and Regulations. Please note that your commission of any one of the following violations, standing alone, would support a decision to terminate your employment. A decision to terminate your employment need not be based upon a finding or conclusion that you committed multiple rule violations and/or that you violated all of the rules set forth below.

SOUTH PASADENA POLICE DEPARTMENT DUTY MANUAL, VOLUME 4,  
Chapter 7

640 GROUND FOR DISCIPLINARY ACTION

Disciplinary action may be taken for any cause, which may include, but not be limited to the following, insofar as they relate to the employee's ability to perform the functions required by his employment with the City:

...

- (e) Dishonesty, involving employment

705.02 CANON TWO: PEACE OFFICERS SHALL BE AWARE OF AND SHALL USE PROPER AND ETHICAL PROCEDURES IN DISCHARGING THEIR OFFICIAL DUTIES AND RESPONSIBILITIES

Peace officers shall be subject to disciplinary action for unprofessional conduct whenever:

...

- (e) They with intent to deceive or misrepresent, omit relevant facts or otherwise falsify information, testimony, or evidence which they provide in their official capacity.

CITY OF SOUTH PASADENA PERSONNEL RULES AND REGULATIONS,  
RULE 11. DISCIPLINARY ACTIONS

Rule 11.3. Grounds for Disciplinary Action

Disciplinary action may be taken for any cause, which may include, but not be limited to the following, insofar as they relate to the employee's ability to perform the functions required by his employment with the City:

...

- (c) Inefficiency or inexcusable neglect of duty, -i.e., failure to perform duties required of an employee within his position.

...

- (e) Dishonesty, involving employment.

...

- (m) Violation of the rules and regulations published in any department

## **II. BACKGROUND INFORMATION**

### **A. The January 31, 2012, Traffic Stop**

On January 31, 2012, you were assigned to the Patrol A - Night Shift. At 0459 hours, on Rollin Street, immediately west of Fair Oaks Avenue, you initiated a traffic stop on a black [REDACTED], California license plate No. [REDACTED]. You proceeded to walk up to the driver's door and asked the driver why he was driving so fast. The driver admitted to drinking a couple beers at a friend's house and stated he just wanted to get home. You did not ask the driver for identification or paperwork and walked back to your car. Approximately one minute after informing dispatch of the traffic stop, you informed dispatch that the driver was "10-8 - warned." About two minutes after you left the driver's door of the suspect vehicle, the driver of the car fled from the area and drove home.

### **B. [REDACTED] Confession That He Fled the Scene**

The person you had stopped, [REDACTED], had been involved in a hit and run traffic accident in the City of Pasadena several minutes prior to your stop. The Department became aware of this fact only after [REDACTED] voluntarily came to the police station on January 31, 2012, at 1200 hours. [REDACTED] said he felt guilty and wanted to turn himself in for running from a police officer earlier in the morning.

[REDACTED] initially spoke with [REDACTED] and gave a description of the officer who stopped him earlier that morning. [REDACTED], when giving the information to Officer [REDACTED], said that [REDACTED] described "Officer Green to a T."

[REDACTED] then spoke with Officer [REDACTED]. [REDACTED] reported to Officer [REDACTED] that the officer asked him why he was driving so fast. [REDACTED] said he was not asked to provide a license or other paperwork. He said the officer never came back and he decided to drive home. When asked if the officer gave him any indication he could leave, [REDACTED] replied "no." When asked if the officer was still there when he drove away, [REDACTED] reported that the car was still there with the lights on.

Later that day, after approximately 1800 hours. Sergeant Craig Cooper conducted a follow up interview of [REDACTED]. While [REDACTED] was sitting in the Watch Commander's office, you knocked on the door and showed Sergeant Cooper a bag of evidence from an earlier unrelated call. After Sergeant Cooper finished speaking with you and closed the door, [REDACTED] pointed towards you and said, "that's the officer who stopped me."

Based upon [REDACTED] report, and because the nature of his contact with you was unclear, an investigation, I.A. Case Number 2012-02, was opened to determine if you engaged in any misconduct by your actions that morning.

**C. The February 1, 2012, Internal Affairs Interview**

Sergeant Cooper interviewed you on February 1, 2012, at approximately 0030 hours. During your interview, you said that you stopped a car for speeding and it stopped at Fair Oaks Avenue and Rollin Street. You also stated that you did not smell any alcohol on [REDACTED] breath due to the fact you never got close enough to do so. You also said you would not be able to identify the driver of the car you stopped if you saw him again, nor did you notice the front end damage to his car, because, contrary to what [REDACTED] reported, you said you never passed the rear bumper of [REDACTED] vehicle and just yelled towards him to slow down and drive safe.

You said you were more concerned about some suspicious subjects you saw at the middle school. You indicated that, after yelling at [REDACTED], you entered your patrol vehicle and backed up onto Fair Oaks Avenue to look for the suspicious subjects. Although you felt the two alleged subjects were suspicious, you did not inform dispatch of the two suspicious persons, did not tell dispatch that you were looking for two suspicious people, and did not request assistance to search for them as is routine, especially during hours of darkness. You were not able to locate the two suspicious subjects.

**D. The April 2, 2012, Follow Up Internal Affairs Interview**

On April 2, 2012, at approximately 2330 hours, you sat for a follow up interview with Sergeant Cooper. In this interview, you were asked if you had any of your overhead lighting on during the traffic stop. You said that you did not have your overhead take down lights on, nor did you have your spot lights turned on. You said you only had your overhead emergency lights on. Sergeant Cooper then asked where you were standing during the traffic stop. You stated that you were standing by the rear driver side quarter panel. When asked why you didn't activate your spot lights or take down lights, you indicated that you were only going to tell the driver to slow down due to your concern about the two subjects at the middle school.

**E. Adjudication of IA 2012-02**

Upon completion of Sergeant Cooper's investigation, Captain Richard Kowaltschuk recommended sustaining three allegations of misconduct against you based upon your actions during the January 31, 2012, traffic stop, as well as statements you made during your interviews.

First, Captain Kowaltschuk recommended sustaining the allegation that you failed to perform your duty by neglecting to investigate a possible incident of driving under the influence, despite [REDACTED] admission to you that he had

been drinking. A thorough investigation may have revealed that [REDACTED] had been involved in a hit and run traffic accident in the City of Pasadena several minutes prior to your stop.

Captain Kowaltschuk also recommended sustaining a second allegation that you were dishonest during your initial interview on February 1, 2012, when you said you never passed the rear bumper of [REDACTED] vehicle and just yelled towards him to slow down and drive safely. Your statements were directly contradicted by [REDACTED] who indicated he spoke with you as you stood at his driver's door, and the fact [REDACTED] was able to describe you "to a T" and identify you at the police station. Captain Kowaltschuk's recommendations were further supported by the fact that, at a mock traffic stop made at the same location under similar lighting conditions as your stop of [REDACTED], Captain Kowaltschuk was unable to identify the officer's face until the officer was standing at the door post behind the driver's seat.

Finally, Captain Kowaltschuk recommended sustaining a third allegation that you were dishonest with Sergeant Cooper during your follow-up interview on April 2, 2012<sup>1</sup>, when you again stated that you were standing by the rear driver's side quarter panel of [REDACTED] vehicle.

#### **F. Imposition of Six Day Stayed Suspension**

Following service of a Notice of Intent to impose a six (6) day suspension regarding the foregoing, you met with Chief Joseph Payne on January 7, 2013, for a *Skelly* conference. Based upon the discussions at the *Skelly*, Chief Payne agreed to stay the six day suspension pending your successful completion of certain training to and a performance improvement plan. This informal action was memorialized in a January 25, 2013, letter from Chief Payne. This event is discussed and critiqued in detail below.

### **III. FACTUAL BASES FOR THE PROPOSED ACTION (Incorporating Background Information from Section II, above)**

This disciplinary recommendation is not and need not be reasonably based on a finding by me or any future reviewing person or body, that each of the following causes exist for your dismissal. The existence of any one of the following causes would reasonably support my proposed decision.

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<sup>1</sup> In discussing this allegation, Captain Kowaltschuk's adjudication memorandum erroneously indicates that the follow-up interview occurred "on 2-02-12 at approximately 2230 hours." However, the follow-up interview in fact took place on April 2, 2012, as reflected elsewhere in Captain Kowaltschuk's memorandum as well as in Sergeant Cooper's investigative memorandum.

**A. You Were Dishonest and Misrepresented Facts In Responding to Questions During Your April 2, 2012, Follow-Up Interview.**

During your April 2, 2012, follow-up interview, Sergeant Cooper asked you where you were standing during [REDACTED] traffic stop. You said you were standing by the rear driver side quarter panel of his car. You also stated that you were only going to tell the driver to slow down due to your concern about two subjects at the middle school.

Your statement on April 2, 2012, as to where you were standing relative to [REDACTED] car was contradicted both by [REDACTED] statements as well as your own statements made during your initial interview on February 1, 2012. During your initial interview on February 1, 2012, you told Sergeant Cooper that you never passed the rear bumper of [REDACTED] car. That was your explanation as to why you did not smell alcohol on [REDACTED] breath, why you would not be able to identify [REDACTED], and why you never saw the front end damage to [REDACTED] vehicle. [REDACTED] stated during his interview that you were standing at his driver side door when he engaged you in conversation and admitted that had been drinking and driving and he was speeding because he just wanted to get home.

Your statement that you were more concerned about two suspicious subjects you allegedly saw at the middle school was also likely false given that, despite your alleged concern about these individuals, you did not inform dispatch of the two suspicious persons, did not tell dispatch that you were looking for two suspicious people, and did not request assistance to search for them as is routine, especially during hours of darkness.

Your April 2, 2012, statements were dishonest and constituted false information in your official capacity, given with the intent to deceive. (*South Pasadena Police Department Duty Manual*, Vol. 4, Chapter 7, Sections 640, subdivision (e) [dishonesty involving employment], and 705.02, Canon Two, subdivision (e) [providing false information in official capacity]; *City of South Pasadena Personnel Rules and Regulations*, Rule 11.3, subdivisions (c) [failure to perform duties required of an employee within his position], (e) [dishonesty involving employment] and (m) [Violation of rules published in any department].)

**IV. ANALYSIS**

In *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, 218, the California Supreme Court held that in considering the propriety of public employee disciplinary action:

[T]he overriding consideration in these cases is the extent to which the employee's conduct resulted in, or if repeated is likely to result in harm to the public service.... Other relevant factors include the circumstances surrounding the misconduct and the likelihood of its recurrence.

Police officers are held to the highest standards of conduct. (See *Ackerman v. State Personnel Board* (1983) 145 Cal.App.3d, 395, 400.) A police officer is expected to tell the truth at all times (*Id.* at 391), and credibility and honesty are essential traits of a law enforcement professional. (*Id.*) Conversely, dishonesty is an intolerable flaw in a law enforcement officer. (See *Kolender v. San Diego County Civil Service Comm'n* (2005) 132 Cal.App.4th 716.)

Dishonesty renders a police officer unable to perform one of the essential functions of the job, i.e., to testify truthfully and competently in a court of law. Because the records of an officer's dishonesty are potentially discoverable both pursuant to a *Pitress* motion under *Evidence Code* sections 1043-1045, and pursuant to *Brady v. Maryland* (1963) 373 U.S. 83, it is reasonable to assume that your dishonesty during your investigative interview will render you utterly ineffective as a prosecution witness. (*Id.*; *United States v. Bagley* (1985) 473 U.S. 667.)

Termination from employment is the appropriate disciplinary action for dishonesty by a police officer even in instances where an officer was a long-term employee with little or no record of prior discipline. (See *Nicolini v. Tuolumne* (1987) 190 Cal.App.3d 619 [upholding termination of a deputy sheriff for dishonesty where deputy had nine years of service and no prior discipline]; *Paulino v. Civil Service Commission* (1985) 175 Cal.App.3d 962 [upholding discharge of police officer for falsely reporting sick leave].)

With these principles in mind, I am proposing to terminate your employment because a preponderance of the evidence demonstrates that you made dishonest statements to Sergeant Cooper during your follow-up interview on April 2, 2012.

Not only was your April 2, 2012, statement as to where you were located relative to [REDACTED] car grossly inconsistent with [REDACTED] account, but it was also inconsistent with your own prior statement made during your initial interview on February 1, 2012. [REDACTED] account—wherein he stated he spoke with you as you stood by his door, and admitted to driving after having consumed a couple of beers—appears to be the more credible version of events. [REDACTED] was able to describe you to [REDACTED], he affirmatively identified you when he was at the station, and, based upon Captain Kowaltschuk's investigation, [REDACTED] likely would not have been able to do either had you remained by the driver's side quarter panel as you claim.

Furthermore, a preponderance of the evidence indicates you lied about being more concerned about two suspicious subjects at the middle school. Although you allegedly felt the two purported subjects were suspicious, you did not inform dispatch of the two suspicious persons, did not tell dispatch that you were looking for the suspicious persons, and did not request assistance to search for them as is routine, particularly during hours of darkness. This is completely contrary to how a suspicious person call is handled. At the conclusion of the stop, you simply told dispatch that you were clearing the traffic stop and that you had



warned the driver. Given that you were already on the radio with dispatch, that would have been the time where you would have informed dispatch of your intent to locate the two suspicious persons. The fact you did not mention anything about the suspicious subjects to dispatch strongly suggests that there were no such suspicious subjects and that your statement about their existence was false.

Unlike [REDACTED], who had absolutely no incentive to lie about the circumstances of the stop, you had a particularly strong incentive to be dishonest. It is my belief that you made your dishonest statements during your follow-up interview on April 2, 2012, in an effort to cover up for the fact you neglected to investigate [REDACTED] for driving under the influence. A review of your disciplinary record indicates that this is not the first incident where you failed to take appropriate action in the performance of your duty. You had previously received a one-day suspension for failing to properly investigate a hit and run traffic accident where the suspect was identified. (See Personnel Complaint, I.A. 2009-03.)

Although this First Amended Notice of Intent to Terminate of your employment is based solely upon your most recent act of dishonesty, your disciplinary history and the earlier findings that you were dishonest and neglected to take appropriate action all support my conclusion, under *Skelly*, that the dishonesty of the sort exhibited on April 2, 2012, is very likely to recur. It is worth pointing out that during prior *Pitchess* motions regarding your disciplinary history, the judges reviewing the internal investigation files each commented on your history by asking if the Department recognized it had a problem with you. This most recent incident of dishonesty can only compound these previously existing issues.

I am cognizant of the fact that the allegation of misconduct relating to your April 2, 2012, statements (at least with respect to your position relative to [REDACTED] vehicle) was previously encompassed within the prior disciplinary determination by former Chief Payne. However, the Constitutional concept of double jeopardy does not apply to employment decisions. Furthermore, it is within my power to determine that the earlier discipline (which remains pending) was too lenient. (See, *Ziegler v. City of South Pasadena* (1999) 73 Cal.App.4th 391, 397.) (See discussion and critique, below.)

Given the circumstances surrounding your dishonesty, and the high likelihood of recurrence and the obvious harm to the public service, it is my belief that your misconduct warrants termination of your employment.

## **V. ASSESSMENT OF THE PROCEDURAL HISTORY IN THIS MATTER**

It would be a dereliction of my responsibilities to not address the unique and circuitous procedural and substantive history that has preceded this First Amended Notice of Intent to Terminate. At least one of your two attorneys (Morse Taylor) has indicated in prior administrative interactions that you believe it is unlawful for the City to disregard the January 25, 2013 letter sent to you by

former Chief of Police Joseph Payne ("Payne"), and which impose a "stayed" six day suspension upon you as regards the above incident. It is essential that a future reviewer of this matter understand that the prior writings and arguments made by you have not been ignored and that they have been properly determined as not modifying the present proposed decision that you be terminated.

**A. The November 19, 2012 Notice of Intent to Discipline**

By means of correspondence dated November 19, 2012, Payne assessed the above matter and provided you with notice of his intent to impose a six (6) working day suspension as a result of his findings that the investigative materials described above justified a determination that you had engaged in a neglect of duty. In pertinent part, Payne determined that you failed to conduct a proper traffic stop, and that had it been properly conducted, it would have provided sufficient evidence of a DUI and a hit and run having occurred. The former Chief also specifically found that you, "... failed to be diligent during your traffic stop at a time of the morning and under circumstances that would have lead a reasonable officer to suspect DUI or to discover damage to vehicle that had moments earlier been involved and [sic] a traffic accident and subsequent hit and run."

Of import, the former Chief's November 19, 2012 Notice of Intent to Discipline specifically determined that allegations sustained by Captain Kowaltschuk to the effect that you had been dishonest during the administrative interviews of this matter, were not sustained. (Please keep in mind that as a matter of law, a "not sustained" finding means that there was evidence of dishonesty, but Payne determined that the evidence was insufficient to form a basis for disciplinary action. This is comparable to what happens when a District Attorney's office rejects a criminal filing because of "insufficiency of the evidence." This latter finding does not mean that there was no evidence of criminal conduct, but only that the District Attorney's office determined the evidence was insufficient to likely result in proof beyond a reasonable doubt as to criminal conduct.)

Of significant import to both my current proposed determination that you be terminated and to the inexplicable and baseless January 25, 2013 determination by Payne that you are subject to not only a nominal six (6) day suspension, but that the suspension shall be stayed, is Payne's November 19, 2012 finding that:

"Furthermore, your explanation as to why you did not investigate further [referring to examination of the subject driver and the vehicle, to determine that a DUI and/or accident had occurred] makes no sense to me, to include your failure to radio into dispatch suspicious activity at the middle school or to request backup to investigate something that demands diligence. *Your reasoning as to why this interfered with your failed investigation of a DUI/Hit and Run driver is not convincing to me.* . . . Although I have some troubling concerns over how you executed this traffic stop and your

reasons why you failed to follow through with this investigation (your statement in context regarding suspicious persons at the middle school **defies reason**.) I am cognizant of the consequences of dishonesty and the high threshold such a serious allegation demands." (Emphasis added.)

Based on Payne's November 19, 2012 analysis, it is self evident and literally stated that he finds that a variety of your statements are "not convincing" and "defy reason." Nonetheless, for reasons that are unclear, the former Chief chose to ignore the inescapable product of such determinations, namely that you were dishonest during the investigation process.

The above being said, the November 19, 2012 Payne letter does shed light upon why he apparently chose to ignore your acts of dishonesty. In this regard, the former Chief wrote:

" . . . I am cognizant of the consequences of dishonesty. . . . "

In this regard, I can advise, based upon several decades of experience in the law enforcement profession, that the "consequences" of dishonesty are precisely what you are reading in this First Amended Notice of Intent to Terminate Employment, namely dismissal from the law enforcement profession. For inexplicable reasons, Payne did not want to dismiss you, even though the evidence presented to him supported such a determination.

**B. The January 25, 2013 Payne Notice of Disposition**

Given the above November 19, 2012 analysis prepared by Payne, I have tried to better understand how the former Chief's November 19, 2012 memorandum morphed into an even less severe punitive action whereby your already meager six (6) day suspension was stayed. The January 25, 2013 memorandum from the former Chief *and subsequent documents/communications which will be addressed below*, shed light on how the January 25, 2013 memorandum was arrived at.

As indicated above, the November 19, 2012, Payne memorandum evidences his avoidance of addressing Captain Kowaltschuk's findings that you were dishonest, by indicating that he was cognizant of the consequences to your career if he, himself, determined you were dishonest. You would be effectively barred from the profession. Thus, I see that Chief Payne focused upon an artificial means of preserving your employment by ignoring the well-founded findings of Captain Kowaltschuk that you had been dishonest during the investigative process.

Already being disposed to providing you with a shield from your misconduct, the January 25, 2013 Payne letter includes the following language:

"On your own admission, you acknowledged that you battle with Attention Deficit Disorder and Dyslexia. Not being a professional diagnosis and my own lack of professional knowledge, it is imperative that, through the assistance of the Human Resources Department, you undergo, at the City's expense, a professional diagnosis of any conditions that may be identified that limit your ability to investigate and properly document the typical investigation that a South Pasadena police officer may be called on to complete. . . . This is our best effort to correct your learning deficiencies and make you a better officer."

It thus appears that the former Chief's analytical process in determining in the first instance that you were not dishonest, and in the second instance determining that imposition of a monetary remedial penalty is inappropriate, were both based on issues unrelated to your conduct during the incident in question. On the one hand, Chief Payne did not want to make a finding that would have resulted in your dismissal from the police department and in the second instance, Chief Payne apparently determined that your conduct during the incident in question was impacted/excused because, ". . . you battle with attention deficit order and dyslexia."

Chief Payne retired from the City on February 22, 2013. On February 25, 2013, I was hired as his replacement. Upon reviewing the personnel files of the police department staff, the above issues were discovered by me and have led to this preliminary determination by me.

**C. INVITATION TO INTERACTIVE PROCESS MEETING AND RELATED DOCUMENTS**

In addition to that review of your file resulting in issuance of the initial Notice of Intent to Terminate Employment, you were also issued a July 9, 2013 Invitation to Interactive Process Meeting.

As that document displayed, given that a review of Payne's January 25, 2013 document sent to your attention reveals Payne's representation that you have admitted that you "battle with attention deficit disorder and dyslexia," the City determined that the interactive disability accommodation process would be appropriate. Thus, the July 9, 2013 invitation to such a meeting was presented to you.

In reply to the City's Invitation, one of your two lawyers, Morse Taylor, wrote a July 15, 2013 letter to City-defense counsel Elizabeth M. Kessel. In pertinent part, your attorney stated:

"My client denies that he has a disability that requires an accommodation for him to perform his duties as a police officer. ***He has performed those duties satisfactorily for 18 years without a suspension or a reprimand during that time.*** He does not

deny that he has ADD or dyslexia, however, **he did not tell Chief Payne that he "battled with ADD and dyslexia."** That language came from Chief Payne. . . ." (Emphasis added.)

Mr. Taylor sought to reschedule the meeting and it was in fact temporarily off calendar. Following additional attempts by the City to conduct an interactive process with you, Mr. Morse once again wrote to the City on July 19, 2013 and in pertinent part, advised Ms. Kessel that:

"The City has offered no medical evidence that Officer Green needs any accommodation to do his job functions within the police department. He has not asked for any accommodation. . . . In the event the City expects retired Chief Payne to confirm a disability, he specifically told me that he has no knowledge of any disability because that is a professional conclusion he was never prepared to make.

\*\*\*

For the time being, Officer Green and his attorneys will not attend the interactive process meeting for the reasons stated herein."

As can be seen from the above, it appears that former Chief Payne's disciplinary determinations regarding the subject incident were based not upon assessment of your conduct and its impact upon the law enforcement profession, but instead, upon concern regarding how a finding of dishonesty would impact your career and upon a baseless determination that you "battle with ADD and dyslexia." It is the position of your counsel as stated in his July 15, 2013 letter to Ms. Kessel, that you have performed your duties satisfactorily for 18 years, presumably not being impacted by ADD or dyslexia or any learning or other possible deficits.

**D. The Alleged Contract Between You and Former Chief Payne**

Regardless of the above, and as alluded to both during the June 24, 2013 pre-disciplinary meeting in this matter and in attorney Morse Taylor's July 19, 2013 letter to Ms. Kessel's attention, it is your position that the January 25, 2013 letter from former Chief Payne to you (cosigned by you on January 28, 2013) is a "contract" which limits disposition of the above matter to the stayed six (6) day suspension referenced in that letter.

It is my position that the January 25, 2013 Payne letter does not constitute a "contract." First, it is clear law that a contract is a voidable where it is the result of a mistake of fact. It is self evident from a review of the January 25, 2013 Payne letter that he believed you "battled with attention deficit disorder and dyslexia" and he held out the baseless view that such "battle" would limit your ability to investigate and properly document typical investigations (in spite of your attorney claiming that in the past 18 years, there has been no such impact.)

As seen in the above letters from your lawyer, you claim to have never told Chief Payne that you "battled with ADD and dyslexia," and your lawyer makes it very clear that you have no disability or deficit requiring an accommodation for you to perform your duties as a police officer. As Mr. Taylor indicates, it is your perception that you have performed your duties satisfactorily for 18 years.

**E. Impact of *Zeigler v. City of South Pasadena***

During the initial pre-disciplinary meeting in this matter, there was also indication by you that to allow me to impose disciplinary action in excess of that addressed by former Chief Payne (in reality, Payne imposed no discipline) would constitute inadmissible placement of you in "double jeopardy."

As indicated in the *Zeigler* case (coincidentally also arising in connection with a South Pasadena police officer,) "The constitutional concept of double jeopardy does not apply to employment decisions." *Zeigler v. City of South Pasadena* (1999) 73 CA 4 391, 397.

In the *Zeigler* matter, a termination was allowed, ". . . based upon additional elements which were not present at the time Zeigler was released from probation (the prior action.)" (73 CA 4 398.)

Here, the above analysis by me makes it clear that there are indeed "additional elements" considered by me that were not properly considered by the former Chief. Based upon the recent correspondence from attorney Morse Taylor, it is self evident that a "disability" was not a factor in your conduct in the matter under consideration. Without basis, Payne apparently believed to the contrary. Second, Chief Payne apparently gave more consideration to your ability to continue with your employment as a police officer, than to the impact your dishonesty had upon the profession that he seemed determined to allow you to continue in.

Considering all of the above factors, it is my preliminary determination that this First Amended Notice of Intent to Terminate Employment shall now properly issue.

**VI. DOCUMENTS IN SUPPORT OF THE PROPOSED DISCIPLINE**

Attached for your review are the materials upon which this proposed action is based. Although not attached, in arriving at the preliminary determination to terminate your employment, I have also reviewed and considered your personnel file and evaluation history. You may make an appointment with Human Resources to examine that file.

**VII. RIGHT TO RESPOND**

Pursuant to *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194 and as provided for by the City's Personnel Rules and Regulations, Rule 11.6, you may

respond to this notice. Your response shall be made to Assistant City Manager Hilary Straus and may be written or oral.

In the event you wish to make an oral response to this notice, Mr. Straus has scheduled a meeting for August 15, 2013, at 9:00 a.m., at the South Pasadena City Hall in the City Manager's Conference Room, 1414 Mission Street, South Pasadena, CA 91030. You have the right to be accompanied by the representative of your choice at this meeting.

In lieu of or in addition to meeting with Mr. Straus, you may provide a written pre-disciplinary response to this notice. Any written response you may wish to make must be received by Mr. Straus no later than the time and date scheduled for your oral response, August 15, 2013, at 9:00 a.m.

If you do not wish to participate in a pre-termination meeting, you may request that no pre-termination meeting be held by writing to the Assistant City Manager, Mr. Straus, so indicating.

If you do not present a timely written or verbal response, you will be deemed to have waived your right to pre-termination review and Mr. Straus will make his final recommendation of discipline without any response by you. Mr. Straus will then make a final disciplinary determination based solely upon a review of my recommendation and the information serving as the basis for the proposed action.

Should Mr. Straus determine that termination of your employment is warranted, the termination shall be effective immediately, upon service upon you of the final notice of termination.

**Attachments:**

- A. Investigation for I.A. Case Number 2012-02, dated August 12, 2012;
- B. Adjudication for I.A. Case Number 2012-02, dated August 29, 2012;
- C. Letter from Chief Joseph Payne to Officer Pat Green, dated January 25, 2013.
- D. November 19, 2012 Notice of Intent to Discipline.
- E. July 9, 2013 Invitation to Interactive Process Meeting
- F. July 15, 2013 Taylor letter.
- G. July 19, 2013 Taylor letter.

**ACKNOWLEDGMENT OF RECEIPT**

On Aug 2, 2013, I witnessed the personal delivery of this notice to Officer Timothy Patrick Green.

By: Art Miller, Chief of Police

I acknowledge receiving this notice on 8-2-13.

Timothy Patrick Green  
Timothy Patrick Green





## CITY OF SOUTH PASADENA

POLICE DEPARTMENT


1422 MISSION STREET, SOUTH PASADENA, CA 91030

TEL: 626.403.7270 ■ FAX: 626.403.7271

WWW.CI.SOUTH-PASADENA.CA.US

### MEMORANDUM

TO: Timothy Patrick Green, Police Officer

FROM: Arthur Miller, Chief of Police 

DATE: March 28, 2013

RE: NOTICE OF INTENT TO TERMINATE EMPLOYMENT

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Pursuant to Rule 11.6 of the City of South Pasadena's ("City") Personnel Rules and Regulations and *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, I am advising you of my preliminary determination to recommend that you be terminated from your employment as a Police Officer with the City.

#### I. RULES AND REGULATIONS VIOLATED

This Notice of Intent to Terminate is based upon my preliminary determination that you have committed the following violations of the Police Department Duty Manual and City's Personnel Rules and Regulations. Please note that your commission of any one of the following violations, standing alone, would support a decision to terminate your employment. A decision to terminate your employment need not be based upon a finding or conclusion that you committed multiple rule violations and/or that you violated all of the rules set forth below.

#### SOUTH PASADENA POLICE DEPARTMENT DUTY MANUAL, VOLUME 4, Chapter 7

##### 640 GROUNDS FOR DISCIPLINARY ACTION

Disciplinary action may be taken for any cause, which may include, but not be limited to the following, insofar as they relate to the employee's ability to perform the functions required by his employment with the City:

...

- (e) Dishonesty, involving employment

**705.02 CANON TWO: PEACE OFFICERS SHALL BE AWARE OF  
AND SHALL USE PROPER AND ETHICAL PROCEDURES IN  
DISCHARGING THEIR OFFICIAL DUTIES AND RESPONSIBILITIES**

Peace officers shall be subject to disciplinary action for  
unprofessional conduct whenever:

...

- (e) They with intent to deceive or misrepresent, omit relevant facts or otherwise falsify information, testimony, or evidence which they provide in their official capacity.

**CITY OF SOUTH PASADENA PERSONNEL RULES AND REGULATIONS,**  
**RULE 11. DISCIPLINARY ACTIONS**

***Rule 11.3. Grounds for Disciplinary Action***

Disciplinary action may be taken for any cause, which may include, but not be limited to the following, insofar as they relate to the employee's ability to perform the functions required by his employment with the City:

...

- (c) Inefficiency or inexcusable neglect of duty, -i.e., failure to perform duties required of an employee within his position.

...

- (e) Dishonesty, involving employment:

...

- (m) Violation of the rules and regulations published in any department

**II. BACKGROUND INFORMATION**

**A. The January 31, 2012, Traffic Stop**

On January 31, 2012, you were assigned to the Patrol A - Night Shift. At 0459 hours, on Rollin Street, immediately west of Fair Oaks Avenue, you initiated a traffic stop on a black [REDACTED], California license plate No [REDACTED]. You proceeded to walk up to the driver's door and asked the driver why he was driving so fast. The driver admitted to drinking a couple beers at a friend's house and stated he just wanted to get home. You did not ask the driver for

identification or paperwork and walked back to your car. Approximately one minute after informing dispatch of the traffic stop, you informed dispatch that the driver was "10-8 - warned." About two minutes after you left the driver's door of the suspect vehicle, the driver of the car fled from the area and drove home.

**B. [REDACTED] Confession That He Fled the Scene**

The person you had stopped, [REDACTED], had been involved in a hit and run traffic accident in the City of Pasadena several minutes prior to your stop. The Department became aware of this fact only after [REDACTED] voluntarily came to the police station on January 31, 2012, at 1200 hours. [REDACTED] said he felt guilty and wanted to turn himself in for running from a police officer earlier in the morning.

[REDACTED] initially spoke with [REDACTED] and gave a description of the officer who stopped him earlier that morning. [REDACTED] when giving the information to [REDACTED], said that [REDACTED] described "Officer Green to a T."

[REDACTED] then spoke with [REDACTED]. [REDACTED] reported to [REDACTED] that the officer asked him why he was driving so fast. [REDACTED] said he was not asked to provide a license or other paperwork. He said the officer never came back and he decided to drive home. When asked if the officer gave him any indication he could leave, [REDACTED] replied "no." When asked if the officer was still there when he drove away, [REDACTED] reported that the car was still there with the lights on.

Later that day, after approximately 1800 hours. Sergeant Craig Cooper conducted a follow up interview of [REDACTED]. While [REDACTED] was sitting in the Watch Commander's office, you knocked on the door and showed Sergeant Cooper a bag of evidence from an earlier unrelated call. After Sergeant Cooper finished speaking with you and closed the door, [REDACTED] pointed towards you and said, "that's the officer who stopped me."

Based upon [REDACTED]'s report, and because the nature of his contact with you was unclear, an investigation, I.A. Case Number 2012-02, was opened to determine if you engaged in any misconduct by your actions that morning.

**C. The February 1, 2012, Internal Affairs Interview**

Sergeant Cooper interviewed you on February 1, 2012, at approximately 0030 hours. During your interview, you said that you stopped a car for speeding and it stopped at Fair Oaks Avenue and Rollin Street. You also stated that you did not smell any alcohol on [REDACTED] breath due to the fact you never got close enough to do so. You also said you would not be able to identify the driver of the car you stopped if you saw him again, nor did you notice the front end damage to his car, because, contrary to what [REDACTED] reported, you said you never passed the rear bumper of [REDACTED] vehicle and just yelled towards him to

slow down and drive safe.

You said you were more concerned about some suspicious subjects you saw at the middle school. You indicated that, after yelling at [REDACTED], you entered your patrol vehicle and backed up onto Fair Oaks Avenue to look for the suspicious subjects. Although you felt the two alleged subjects were suspicious, you did not inform dispatch of the two suspicious persons, did not tell dispatch that you were looking for two suspicious people, and did not request assistance to search for them as is routine, especially during hours of darkness. You were not able to locate the two suspicious subjects.

#### **D. The April 2, 2012, Follow Up Internal Affairs Interview**

On April 2, 2012, at approximately 2330 hours, you sat for a follow up interview with Sergeant Cooper. In this interview, you were asked if you had any of your overhead lighting on during the traffic stop. You said that you did not have your overhead take down lights on, nor did you have your spot lights turned on. You said you only had your overhead emergency lights on. Sergeant Cooper then asked where you were standing during the traffic stop. You stated that you were standing by the rear driver side quarter panel. When asked why you didn't activate your spot lights or take down lights, you indicated that you were only going to tell the driver to slow down due to your concern about the two subjects at the middle school.

#### **E. Adjudication of IA 2012-02**

Upon completion of Sergeant Cooper's investigation, Captain Richard Kowaltschuk recommended sustaining three allegations of misconduct against you based upon your actions during the January 31, 2012, traffic stop, as well as statements you made during your interviews.

First, Captain Kowaltschuk recommended sustaining the allegation that you failed to perform your duty by neglecting to investigate a possible incident of driving under the influence, despite [REDACTED] admission to you that he had been drinking. A thorough investigation may have revealed that [REDACTED] had been involved in a hit and run traffic accident in the City of Pasadena several minutes prior to your stop.

Captain Kowaltschuk also recommended sustaining a second allegation that you were dishonest during your initial interview on February 1, 2012, when you said you never passed the rear bumper of [REDACTED] vehicle and just yelled towards him to slow down and drive safely. Your statements were directly contradicted by [REDACTED] who indicated he spoke with you as you stood at his driver's door, and the fact [REDACTED] was able to describe you "to a T" and identify you at the police station. Captain Kowaltschuk's recommendations were further supported by the fact that, at a mock traffic stop made at the same location under similar lighting conditions as your stop of [REDACTED], Captain Kowaltschuk was unable to identify the officer's face until the officer was standing

at the door post behind the driver's seat.

Finally, Captain Kowaltschuk recommended sustaining a third allegation that you were dishonest with Sergeant Cooper during your follow-up interview on April 2, 2012<sup>1</sup>, when you again stated that you were standing by the rear driver's side quarter panel of [REDACTED] vehicle.

#### **F. Imposition of Six Day Stayed Suspension**

Following service of a Notice of Intent to impose a six (6) day suspension regarding the foregoing, you met with Chief Joseph Payne on January 7, 2013, for a *Skelly* conference. Based upon the discussions at the *Skelly*, Chief Payne agreed to stay the six day suspension pending your successful completion of certain training to and a performance improvement plan. The agreed upon informal resolution was memorialized in a January 25, 2013, letter from Chief Payne. You agreed to the proposal by signing the letter on January 28, 2013.

### **III. FACTUAL BASES FOR THE PROPOSED ACTION (Incorporating Background Information from Section II, above)**

This proposed disciplinary determination is not and need not be reasonably based on a finding by me or any future reviewing person or body, that each of the following causes exist for your dismissal. The existence of any one of the following causes would reasonably support my proposed decision.

#### **A. You Were Dishonest and Misrepresented Facts In Responding to Questions During Your April 2, 2012, Follow-Up Interview.**

During your April 2, 2012, follow-up interview, Sergeant Cooper asked you where you were standing during [REDACTED] traffic stop. You said you were standing by the rear driver side quarter panel of his car. You also stated that you were only going to tell the driver to slow down due to your concern about two subjects at the middle school.

Your statement on April 2, 2012, as to where you were standing relative to [REDACTED] car was contradicted both by [REDACTED] statements as well as your own statements made during your initial interview on February 1, 2012. During your initial interview on February 1, 2012, you told Sergeant Cooper that you never passed the rear bumper of [REDACTED] car. That was your explanation as to why you did not smell alcohol on [REDACTED] breath, why you would not be able to identify [REDACTED], and why you never saw the front end damage to [REDACTED] vehicle. [REDACTED] stated during his interview that you were standing

<sup>1</sup> In discussing this allegation, Captain Kowaltschuk's adjudication memorandum erroneously indicates that the follow-up interview occurred "on 2-02-12 at approximately 2230 hours." However, the follow-up interview in fact took place on April 2, 2012, as reflected elsewhere in Captain Kowaltschuk's memorandum as well as in Sergeant Cooper's investigative memorandum.

at his driver side door when he engaged you in conversation and admitted that he had been drinking and driving and he was speeding because he just wanted to get home.

Your statement that you were more concerned about two suspicious subjects you allegedly saw at the middle school was also likely false given that, despite your alleged concern about these individuals, you did not inform dispatch of the two suspicious persons, did not tell dispatch that you were looking for two suspicious people, and did not request assistance to search for them as is routine, especially during hours of darkness.

Your April 2, 2012, statements were dishonest and constituted false information in your official capacity, given with the intent to deceive. (*South Pasadena Police Department Duty Manual*, Vol. 4, Chapter 7, Sections 640, subdivision (e) [dishonesty involving employment], and 705.02, Canon Two, subdivision (e) [providing false information in official capacity]; *City of South Pasadena Personnel Rules and Regulations*, Rule 11.3, subdivisions (c) [failure to perform duties required of an employee within his position], (e) [dishonesty involving employment] and (m) [Violation of rules published in any department].)

#### IV. ANALYSIS

In *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, 218, the California Supreme Court held that in considering the propriety of public employee disciplinary action:

[T]he overriding consideration in these cases is the extent to which the employee's conduct resulted in, or if repeated is likely to result in harm to the public service.... Other relevant factors include the circumstances surrounding the misconduct and the likelihood of its recurrence.

Police officers are held to the highest standards of conduct. (See *Ackerman v. State Personnel Board* (1983) 145 Cal.App.3d, 395, 400.) A police officer is expected to tell the truth at all times (*Id.* at 391), and credibility and honesty are essential traits of a law enforcement professional. (*Id.*) Conversely, dishonesty is an intolerable flaw in a law enforcement officer. (See *Kolender v. San Diego County Civil Service Comm'n* (2005) 132 Cal.App.4th 716.)

Dishonesty renders a police officer unable to perform one of the essential functions of the job, i.e., to testify truthfully and competently in a court of law. Because the records of an officer's dishonesty are potentially discoverable both pursuant to a *Pitchess* motion under *Evidence Code* sections 1043-1045, and pursuant to *Brady v. Maryland* (1963) 373 U.S. 83, it is reasonable to assume that your dishonesty during your investigative interview will render you utterly ineffective as a prosecution witness. (*Id.*; *United States v. Bagley* (1985) 473 U.S. 667.)

Termination from employment is the appropriate disciplinary action for dishonesty by a police officer even in instances where an officer was a long-term employee with little or no record of prior discipline. (See *Nicolini v. Tuolumne* (1987) 190 Cal.App.3d 619 [upholding termination of a deputy sheriff for dishonesty where deputy had nine years of service and no prior discipline]; *Paulino v. Civil Service Commission* (1985) 175 Cal.App.3d 962 [upholding discharge of police officer for falsely reporting sick leave].)

With these principles in mind, I am proposing termination of your employment because a preponderance of the evidence demonstrates that you made affirmatively and intentionally dishonest statements to Sergeant Cooper during your follow-up interview on April 2, 2012.

Not only was your April 2, 2012, statement as to where you were located relative to [REDACTED] car grossly inconsistent with [REDACTED] account, but it was also inconsistent with your own prior statement made during your initial interview on February 1, 2012. [REDACTED] account—wherein he stated he spoke with you as you stood by his door, and admitted to driving after having consumed a couple of beers—appears to be the more credible version of events. [REDACTED] was able to describe you to [REDACTED], he affirmatively identified you when he was at the station, and, based upon Captain Kowaltschuk's investigation, [REDACTED] likely would not have been able to do either had you remained by the driver's side quarter panel as you claim.

Furthermore, a preponderance of the evidence indicates you lied about being more concerned about two suspicious subjects at the middle school. Although you allegedly felt the two purported subjects were suspicious, you did not inform dispatch of the two suspicious persons, did not tell dispatch that you were looking for the suspicious persons, and did not request assistance to search for them as is routine, particularly during hours of darkness. This is completely contrary to how a suspicious person call is handled. At the conclusion of the stop, you simply told dispatch that you were clearing the traffic stop and that you had warned the driver. Given that you were already on the radio with dispatch, that would have been the time where you would have informed dispatch of your intent to locate the two suspicious persons. The fact you did not mention anything about the suspicious subjects to dispatch strongly suggests that there were no such suspicious subjects and that your statement about their existence was false.

Unlike [REDACTED], who had absolutely no incentive to lie about the circumstances of the stop, you had a particularly strong incentive to be dishonest. It is my belief that you made your dishonest statements during your follow-up interview on April 2, 2012, in an effort to cover up for the fact you neglected to investigate [REDACTED] for driving under the influence. A review of your disciplinary record indicates that this is not the first incident where you failed to take appropriate action in the performance of your duty. You had previously received a one-day suspension for failing to properly investigate a hit and run

traffic accident where the suspect was identified. (See Personnel Complaint, I.A. 2009-03.)

Although this present notice of intent to terminate your employment is based solely upon your most recent act of dishonesty, your disciplinary history and the earlier findings that you were dishonest and neglected to take appropriate action all support my conclusion, under *Skelly*, that the dishonesty of the sort exhibited on April 2, 2012, is very likely to recur. It is worth pointing out that during prior *Pitchess* motions regarding your disciplinary history, the judges reviewing the internal investigation files each commented on your history by asking if the Department recognized it had a problem with you. This most recent incident of dishonesty can only compound these previously existing issues.

I am cognizant of the fact that the allegation of misconduct relating to your April 2, 2012, statements (at least with respect to your position relative to [REDACTED] vehicle) was previously encompassed within the prior disciplinary determination by former Chief Payne, which resulted in your agreeing to a six day stayed suspension. However, the Constitutional concept of double jeopardy does not apply to employment decisions. Furthermore, it is within my power to determine that the earlier discipline (which remains pending) was too lenient. (See, *Ziegler v. City of South Pasadena* (1999) 73 Cal.App.4th 391, 397.)

Given the circumstances surrounding your dishonesty, the high likelihood of recurrence and the obvious harm to the public service (as already twice pointed out by judges hearing *Pitchess* motions after having reviewed your files), it is my belief that your misconduct warrants termination of your employment.

#### **V. DOCUMENTS IN SUPPORT OF PROPOSED DISCIPLINE**

Attached for your review are the materials upon which this proposed action is based. Although not attached, in arriving at the determination to terminate your employment, I have also reviewed and considered your personnel file and evaluation history. You may make an appointment with Human Resources to examine that file.

#### **VI. RIGHT TO RESPOND**

Pursuant to *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194 and as provided for by the City's Personnel Rules and Regulations, Rule 11.6, you may respond to this notice. Your response shall be made to me and may be written or oral.

In the event you wish to make an oral response to this notice, I have scheduled a meeting for **April 8, 2013 at 2:00 p.m.**, in the City Manager's Conference Room located on the 2<sup>nd</sup> Floor of the South Pasadena City Hall – 1414 Mission St. South Pasadena, CA 91030. You have the right to be accompanied by the representative of your choice at this meeting.



In lieu of or in addition to meeting with me, you may provide a written pre-disciplinary response to this notice. Any written response you may wish to make must be received by my office no later than the time and date scheduled for your oral response, April 8, 2013, at 2:00 p.m.

If you do not wish to participate in a pre-termination meeting, you may request that no pre-termination meeting be held by writing to the City Manager.

Even if you do not request a waiver of your pre-termination meeting, if you do not appear at the scheduled meeting and have not requested a reasonable rescheduling of that meeting, and if you have not presented a timely written response, you will be deemed to have waived your right to pre-termination review and I will make my final recommendation of discipline to the City Manager without any response by you. The City Manager will then make a final disciplinary determination based solely upon a review of my recommendation and the information serving as the basis for the proposed action.

Should the City Manager determine that termination of your employment is warranted, the termination shall be effective immediately, upon service to you of the final notice of termination April 10, 2013.

**Attachments:**

- A. Investigation for I.A. Case Number 2012-02, dated August 12, 2012;
- B. Adjudication for I.A. Case Number 2012-02, dated August 29, 2012;
- C. Letter from Chief Joseph Payne to Officer Pat Green, dated January 25, 2013.

**ACKNOWLEDGMENT OF RECEIPT**

On 3/28/13, I witnessed the personal delivery of this notice to Officer Timothy Patrick Green.

By [Signature]

Without agreeing or admitting to any of the statements above, I acknowledge receiving this notice on 3-28-13.

[Signature]  
Timothy Patrick Green, Police Officer

## UNIONS:

ALHAMBRA POA  
 ANAHEIM POA  
 ARCADIA POA  
 ARROYO GRANDE POA  
 ATENEA POA  
 AZUSA ADL  
 AZUSA CAMP  
 AZUSA POA  
 BAKERSFIELD POA  
 BALDWIN PARK POA  
 BALDWIN PARK SCHOOLS POA  
 BANNING POA  
 BARTON POA  
 BEAUMONT POA  
 BISHOP POA  
 BRAWLEY POA  
 BREDA POA  
 BUENA PARK POA  
 BUENA PARK RESERVES POA  
 BURBANK POA  
 CALEXICO FFA  
 CALEXICO POA  
 CALIFORNIA CITY FFA  
 CA CORRECTIONAL SUPPLY ORG.  
 CAL STATE UNIV. POA (SUP)  
 CATHEDRAL CITY POA  
 CHAFFET COLLEGE POA  
 CHINO POA  
 CHULA VISTA POA  
 CLAREMONT POA  
 COLTON POA  
 COLTON DISPATCHERS ASSN.  
 COMPTON (USD) POA  
 CORONA POA  
 CORONADO POA  
 COSTA MESA POA  
 COVINA POA  
 CULVER CITY POA  
 CYPRESS POA  
 DELANO POA  
 DESERT HOT SPRINGS POA  
 DETENTION OFFICERS GROUP OF L.A.  
 DINTUBA POA  
 DOWNEY POA  
 EAST SAN GABRIEL POA  
 EL CENTRO FFA  
 EL MONTE POA  
 ESCONIDO POA  
 FEDERATED UNIVERSITIES POA  
 FONTANA PBA  
 FONTANA POA  
 FONTANA SCHOOLS POA  
 FORTY POA  
 GARDENA POA  
 GARDEN GROVE POA  
 GLENDALE PARK RANGERS  
 GLENORA POA  
 GUADALUPE POA  
 HEART PAIA  
 HUNTINGTON PARK POA  
 IMPERIAL POA  
 INDIO PCU  
 INDIO POA  
 INGLEWOOD POA  
 INGLEWOOD SCHOOLS POA  
 INYO COUNTY CORRECTIONAL OFFICER'S  
 INYO DSA  
 IRVINDALE POA  
 KINGS CITY POA  
 KINGS COUNTY DSA  
 LANCASTER CEDA  
 LA HABRA POA  
 LA PALMA POA  
 LA VERNE POA  
 LA VERNE FFA  
 LAGUNA BEACH POA  
 LOS ALAMITOS POA  
 L.A. AIRPORT POA  
 L.A. COUNTY PROFESSIONAL POA  
 L.A. GENERAL SERV. POA  
 L.A. PORT POA  
 L.A. SCHOOLS POA  
 LAGUNA LAKES POA  
 LARSEN COMMUNITY COLLEGE POA  
 MERCEDLAND POA  
 MERCEDLAND POA  
 MONO COUNTY DSA  
 MONO COUNTY PA  
 MONO COUNTY PSA  
 MONTCLAIR POA  
 MONTCLAIR FFA  
 MONTCLAIR POA  
 MONTEBELLO POA  
 MONTEREY PARK POA  
 MONTEREY POA  
 MURRIETA POA  
 NEW PORT BEACH PALM & POA  
 ONTARIO POA  
 PALM SPRINGS MAA  
 PALM SPRINGS POA  
 PALOS VERDES POA  
 PASADENA POA  
 PASADENA COLLEGE POA  
 PISO ROBLES POA  
 PEACE OFFICERS OF CA  
 PLACENTIA POA  
 POMONA POA  
 PORAC'S LDF  
 REDONDO BEACH CEA  
 RIALTO PALM & RIALTO POA  
 REDCREST POA  
 RIVERSIDE POA  
 RIVERSIDE COMM. COL. POA  
 SAN BERNARDINO POA  
 SAN BERNARDINO SCHOOLS POA  
 SAN DIEGO COLLEGE POA  
 SAN FERNANDO POA  
 SAN GABRIEL FFA  
 SAN GABRIEL POA  
 SAN LUIS OBISPO POA  
 SAN MARINO FFA  
 SAN MARINO POA  
 SANGER POA  
 SANTA ANA SCHOOLS POA  
 SANTA MARIA POA  
 SANTA MONICA CCD POA  
 SANTA PAULA POA  
 SIERRA MADRE POA  
 SIGNAL HILL POA  
 SOLEDAD POA  
 SOUTH GATE POA  
 SOUTH ORANGE CTY CCD POA  
 SOUTH PASADENA POA  
 STATE UNIVERSITY POA (SUP)  
 TORRANCE POA  
 TRINIDAD POA  
 TUSTIN POA  
 UNIV. CAL. POA (FUP) POA  
 UPLAND PALM & UPLAND POA  
 VENTURA COUNTY SHERIFF'S CORRECTIONAL  
 WEST COVINA FFA  
 WEST COVINA PALM & WEST COVINA POA  
 WEST COVINA PEA  
 WESTMINSTER POA

## LACKIE, DAMMEIER, MCGILL &amp; ETHIR

A PROFESSIONAL CORPORATION

367 NORTH SECOND AVENUE

UPLAND, CALIFORNIA 91786

TELEPHONE: (909) 985-4003

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EMAIL: office@policeattorney.com

WEBSITE: www.policeattorney.com

Received

November 29, 2012

DEC - 3 2012

CHIEF'S OFFICE

SENT VIA FACSIMILE AND U.S. MAIL

(626) 403-7271

Joseph Payne, Chief of Police  
 South Pasadena Police Department  
 1422 Mission Street  
 South Pasadena, CA 91030

**Re: Request for Skelly Hearing/Police Officer Patrick Green**


Dear Chief Payne:

Please be advised this law office now represents Police Officer Patrick Green. It is our understanding that Officer Green has already noticed the department that he wishes to contest his discipline. This letter shall serve as notice that Officer Green wishes to respond orally to the allegations and proposed discipline of six (6) days suspension as set forth in the *Notice of Intent to Discipline*.

Also, please forward a copy of the materials the department relied upon in coming to its decision to impose discipline on Officer Green. Should this notice of intent to respond orally be deficient in any manner, please contact me immediately, so that any deficiency may be corrected. Please feel free to contact me via my cell phone at (619) 347-3935 for scheduling the *Skelly* hearing.

Thank you for your anticipated courtesy and cooperation in this matter.

Very truly yours,  
 LACKIE, DAMMEIER & MCGILL, APC

  
 Peter J. Horton

cc: LDF

DIETER C. DAMMEIER  
 MICHAEL A. MCGILL  
 SAKU E. ETHIR  
 PETER J. HORTON  
 ANDREW M. DAWSON  
 MICHAEL A. MORGUESS  
 KIMBERLY D. RILEY  
 JOHN H. BAKHIT  
 RUSSELL M. PERRY  
 CHRISTOPHER L. GASPARD  
 CAROLINA VERONICA CUTLER  
 MICHAEL D. MCCOY  
 KASEY A. CASTILLO  
 KASEY L. SIRODY  
 JOSEPH N. BOLANDER  
 BRANDI L. HARPER  
 ZACHERY LOPES

OF COUNSEL

MICHAEL D. LACKIE, APC  
 MICHAEL D. SCHWARTZ

SENDER'S EMAIL:  
 HORTON@POLICEATTORNEY.COM



## CITY OF SOUTH PASADENA

OFFICE OF THE CHIEF OF POLICE

1422 MISSION STREET, SOUTH PASADENA, CA 91030

TEL: 626-403-7272 • FAX: 626-403-7271

[WWW.CI.SOUTH-PASADENA.CA.US](http://WWW.CI.SOUTH-PASADENA.CA.US)

Received

JAN 28 2013

CHIEF'S OFFICE

January 25, 2013

Officer Pat Green  
South Pasadena Police Department  
1422 Mission St.  
South Pasadena, CA 91030

Re: IA 2012-02

Officer Green,

Regarding follow up to our Skelly Hearing on January 7, 2013, this shall serve to establish the goals for our informal agreement for resolving the six day suspension that was issued by me in the referenced investigation. It is agreed that the six day suspension will be stayed pending your successful completion of learning disability training and a performance improvement plan to bring you within the average of your fellow officers on any given shift that you are assigned to. It is my desire that this "education-based discipline" plan will make you a more productive officer and give you greater confidence in your abilities to perform the basic duties of a South Pasadena police officer.

**Learning Disability Training-Three Day Stayed Suspension:** On your own admission, you acknowledged that you battle with Attention Deficit Disorder and Dyslexia. Not being a professional diagnosis and my own lack of professional knowledge, it is imperative that, through the assistance of the Human Resources department, you undergo, at the city's expense, a professional diagnosis of any conditions that may be identified that limit your ability to investigate and properly document the typical investigation that a South Pasadena police officer may be called on to complete. I know that this may be considered vague, however it is my belief that your experience as a police officer gives you the basic tools to accomplish this. My desire is for you to use those tools to their greatest advantage. This effort will be between you and Human Resources and I am confident we can accomplish these goals. It is critical that you embark on this with all seriousness. This

is our best effort to correct your learning deficiencies and make you a better officer. It is the police department's responsibility to offer you this opportunity, but is your responsibility to successfully complete it. It will be the ultimate responsibility of the HR director to determine if you have made an honest effort to accomplish this goal. It is my intention that you can accomplish this within one year of this agreement.

**Performance Improvement Plan-Three Day Stayed Suspension:** I propose that you enter into an agreement with your respective watch commander and the Operations Division captain toward a goal that will bring your productivity within an acceptable range as determined by an average established on your assigned patrol shift. I suggest we use a 10% variable and I do not intend to hold you to a specific number in a typical patrol shift. I understand there are various factors that may affect you overall productivity and that some areas may show greater results than others. Primarily, I am interested in seeing improvement in areas where you show significantly below average statistics. These include, but are not limited to, arrests, citations, and reports. These are the areas where we were able to agree need improvement. Simple, subjective areas such as self-initiated extra patrols or calls-for service minutes that can be easily inflated do not demonstrate adequate productivity. The areas where I expect to see improvement are the age-old productivity measures that police officers are typically judged by. To accomplish this goal, I recommend, as a senior officer, that you work shift and beat assignments that provide you the greatest opportunity to show productivity. It will ultimately be the responsibility of your watch commander to determine if you have met this goal.

If you agree to this proposal of learning-deficiency training and performance improvement plan, please indicate by your signature below. Please consult with your labor representative before agreeing to this proposal. I reserve the right to re-impose any portion of the stayed suspension if you fail to make an honest effort to accomplish this goal. Because it is my belief that your learning deficiencies contribute to your lack of productivity, so I propose that your performance goals be tied to your progress in overcoming these deficiencies. I feel I have gone the extra mile to propose this solution and would expect nothing less than your full effort to show improvement.

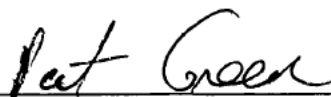
I am sure that, together, we can accomplish these goals.

Sincerely,



Joseph Payne  
Chief of Police

Officer Patrick Green:



Dated:

1-28-13



## **CITY OF SOUTH PASADENA**

**OFFICE OF THE CHIEF OF POLICE**

**1422 MISSION STREET, SOUTH PASADENA, CA 91030**

**TEL: 626-403-7272 • FAX: 626-403-7271**

**WWW.CI.SOUTH-PASADENA.CA.US**

November 19, 2012

Officer Patrick Green  
1422 Mission St.  
South Pasadena, CA 91030

### **Re: Notice of Intent to Discipline**

Officer Green:

I have completed my review of Internal Affairs investigation IA 2012-02 and have arrived at a conclusion of the recommended allegations and intended disciplinary action. What follows is a summary of the allegations, my analysis of the allegations, disposition of the findings, and intended discipline. I have arrived at these conclusions after considering the investigation by Sgt. Craig Cooper and the adjudication of the allegations by Capt. Richard Kowaltschuk.

### **Summary of Events:**

On January 30, 2012 you were working the night shift from 1800 hours until 0600 hours the following day, January 31, 2012. At 0459 hours you initiated a traffic stop on a vehicle for unsafe speed. The offense occurred in the 700 block of Fair Oaks and the stop was made at Fair Oaks and Rollin, with the stop completed on Rollin west of Fair Oaks. It was later determined that the driver, by his own admission, was involved in a hit and run accident in the city of Pasadena and had also been drinking excessively.

The nature of the allegations in this investigation is that you failed to recognize that the driver was likely under the influence of alcohol and had, moments earlier,

## **Notice of Intent to Discipline-Page Two**

been involved in a hit and run accident. This was the result of you failing to conduct a proper traffic stop that would have provided sufficient evidence of DUI and a hit and run. Subsequently, it is alleged you were dishonest when this matter was investigated as Neglect of Duty by Sgt. Craig Cooper.

### **Allegation Number One: Duty Manual Volume 4, Chapter 7, Section (c); City Personnel Rules Part 1, Section 11.3 Neglect of Duty-Sustained**

It is alleged that on January 31, 2012 you neglected the performance of your duties as a police officer by failing to properly investigate a suspected "Driving Under the Influence" (DUI) driver and failure to subsequently discover a suspected "Hit and Run" driver. Your failure to perform the most basic duties of a patrol officer prevented you from discovering evidence that would likely have resulted in an arrest for DUI and Hit and Run.

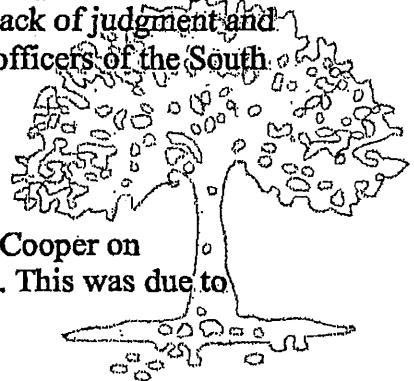
It is my belief that you failed to be diligent during your traffic stop at a time of the morning and under circumstances that would have lead a reasonable officer to suspect DUI or to discover significant damage to a vehicle that had moments earlier been involved and a traffic accident and subsequent hit and run. Furthermore, your explanation as to why you did not investigate further makes no sense to me, to include your failure to radio in to dispatch suspicious activity at the middle school or to request back-up to investigate something that demands diligence. Your reasoning as to why this interfered with your failed investigation of a DUI/Hit and Run driver is not convincing.

### **Allegation Number One: Intent to Discipline**

After careful consideration of the adjudication, the facts as presented in the investigation and conclusions arrived at in the adjudication and from your statements to Sgt. Cooper, I intend to impose discipline in the form of **suspension of six (6) working days**. My intention to discipline is based on a progression of acts and subsequent discipline that demonstrates a significant lack of judgment and failure to perform the duties of a police officer as expected of officers of the South Pasadena Police Department.

### **Allegation Number Two: Dishonesty-Not Sustained**

It is alleged that you were dishonest in your statements to Sgt. Cooper on February 1, 2012 regarding your actions during the traffic stop. This was due to



### **Notice of Intent to Discipline-Page Three**

conflicting statements by Witness [REDACTED] and you as the events unfolded on January 31, 2012. It is my belief that each person's perspective on the events could have differed and that differing perspectives had no bearing or material affect on my belief that Allegation Number One should be sustained. Although I have some troubling concerns over how you executed this traffic stop and your reasons why you failed to follow-through with this investigation (your statement in context regarding suspicious persons at the middle school defies reason), I am cognizant of the consequences of dishonesty and the high threshold such a serious allegation demands.

### **Allegation Number Three: Dishonesty-Not Sustained**

It is alleged you were dishonest in your statements to Sgt. Cooper on February 2, 2012 regarding your actions during the traffic stop. I, again, conclude this allegation is Not Sustained for the same reasons stated in Allegation Number Two.

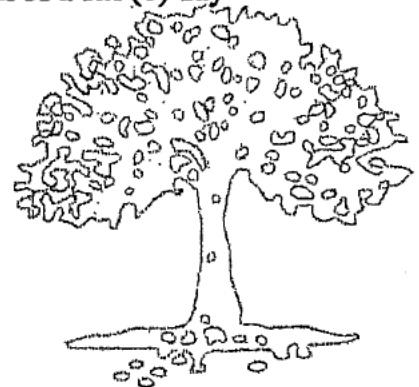
### **Pre-Determination Hearing**

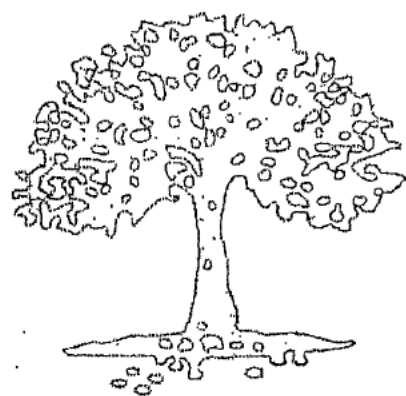
You are entitled to a pre-determination hearing prior to the imposition of discipline in order to present any facts not entered as evidence in the investigation and adjudication, mitigating factors, or request for reconsideration of the intended discipline. You must respond to this notice within five (5) working days from receipt in order to schedule a pre-determination hearing date. Failure to do so will result in the imposition of intended discipline. You are entitled to respond directly to me in person or in writing to this notice within the five working-day period. Failure to do so will result in the imposition of discipline.

Prior to the pre-determination hearing you will be provided all documents considered in the intended discipline. It is my intention, pending conclusion of the pre-determination hearing, to impose this discipline in the form of a six (6) day suspension on January 6,7,8 and 13,14,15, 2013.

Sincerely,

Joseph Payne  
Chief of Police

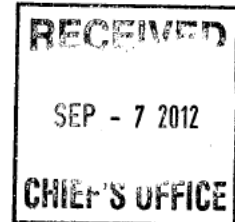







# CITY OF SOUTH PASADENA

Police Department  
Joseph F. Payne, Chief of Police



**To:** Joseph F. Payne, Chief of Police  
**From:** Richard Kowaltschuk, Captain   
**Date:** August 29, 2012  
**Subject:** I.A. Case Number 2012-02 Adjudication – Officer Patrick Green

## Summary:

Officer Patrick Green was hired as a Police Officer by the South Pasadena Police Department on July 10, 1995. He was in full uniform assigned to the Patrol A - Night Shift when Allegation No. One, No. Two, and No. Three occurred.

On 01/31/12, at 0459 hours, Officer Green initiated a traffic stop on a black [REDACTED], California license plate [REDACTED] on Rollin Street immediately west of Fair Oaks Avenue in the City of South Pasadena. Officer Green walked up to the driver's door and asked the driver why he was driving so fast. The driver told Officer Green that he drank a couple six beers at a friend's house and was going home. Officer Green did not ask the driver for identification or paperwork and walked back to his car. About one minute after informing dispatch of the traffic stop, Officer Green informed dispatch that he was "10-8 - warned." About two minutes after Officer Green left the driver's door of the suspect vehicle, the driver of the car fled from the area and drove home.

Note: Although Sgt. Cooper's investigative report states that [REDACTED] admitted to consuming six beers, the audiotaped interview only has [REDACTED] telling Officer Green he consumed a couple beers.

## Allegation No. One:

The Department alleges that on 1-31-12 at about 0459 hours, Officer Green failed to perform his duty by neglecting to investigate a possible incident of driving under the influence. A thorough investigation would have revealed that the person stopped by Officer Green was involved in a hit and run traffic accident in the City of Pasadena several minutes earlier.

Witness [REDACTED], the driver of the car stopped by Offer Green, said that after being stopped at Fair Oaks Avenue and Rollin Street, an officer came up to him and asked why he was driving so fast. [REDACTED] responded by saying he just wanted to get home and admitted to drinking and driving. He said he had a couple beers at a friend's house in Pasadena. [REDACTED] said the officer was standing at his driver's side door after being

pulled over. The officer did not ask for any identification or paperwork for the vehicle and told him to wait. After about two minutes, [REDACTED] said he got scared and fled the scene.

On 2-01-12, while being interviewed at the police station in the watch commander's office, [REDACTED] positively identified Officer Green as the officer that stopped him and from whom he fled when he said, "That's the officer who stopped me."

Witness [REDACTED] spoke to [REDACTED] on 1-31-12 at approximately 1200 hours. [REDACTED] told [REDACTED] that he wanted to turn himself in for running from an officer last night. [REDACTED] took information from [REDACTED] and obtained a description of the officer. [REDACTED], when giving the information to [REDACTED], said that [REDACTED] described "Officer Green to a T."

Witness [REDACTED] interviewed [REDACTED] on 1-31-12. [REDACTED], in a written statement regarding the interview, said that [REDACTED] told him the officer asked him why he was driving so fast. [REDACTED] said he was not asked to provide a license or other paperwork. He said the officer never came back and he decided to drive home. When asked if the officer gave him any indication he could leave, [REDACTED] said "No." When asked if the officer was still there when he drove away, [REDACTED] said the car was still there with the lights on.

Officer Patrick Green denied the allegation. In an interview with Sgt. Cooper on 2-01-12 at approximately 0030 hours, Officer Green said that he stopped a car for speeding and it stopped at Fair Oaks Avenue and Rollin Street. Officer Green said he never passed the rear bumper of [REDACTED] vehicle and just yelled towards him to slow down and drive safe. Officer Green said he was more concerned about the suspicious subjects he saw at the middle school. After yelling at the driver, he entered his patrol vehicle and backed up onto Fair Oaks Avenue. Officer Green was not able to locate the two suspicious subjects and did not notify dispatch of his extra patrol check of the middle school for the subjects. Officer Green said he would not be able to identify the driver of the car he stopped if he saw him again.

During a follow-up interview with Sgt. Cooper on 04-02-12 at approximately 2330 hours, Officer Green said he was standing by the rear driver's side quarter panel when he yelled at the driver of the car. Officer Green said he was only going to tell the driver to slow down due to his concern being with the two subjects he saw at the middle school. Officer Green also said he did not have his overhead take down lights or his spotlights on. He only had his overhead emergency lights on.

**Classification of Allegation No. One:**

It is recommended that Allegation No. One be classified as **SUSTAINED**.

**Rationale of Allegation No. One:**

Officer Green said he never passed the rear bumper or the rear driver's side quarter panel of [REDACTED] vehicle when he yelled at him to slow down and drive safe. However, [REDACTED] said

he spoke to Officer Green as he stood at his driver's door. [REDACTED] was able to "describe Officer Green to a T" and, after seeing Officer Green at the police station, positively identified him when he said, "That's the officer who stopped me."

[REDACTED] came to the police station to turn himself in for running from a police officer. He said the officer was at the driver's door of his [REDACTED] car when he spoke to the officer telling him he had a couple beers at a friend's house. He said the officer did not ask for his driver's license or other paperwork, that the officer told him to wait and returned to his car, and he then fled from the officer after a short time. [REDACTED] had everything to lose by turning himself in and admitting to fleeing from the officer. This allegation should be **SUSTAINED**.

#### **Allegation No. Two:**

The Department alleges that on 2-01-12 at approximately 0031 hours, Officer Green was dishonest when responding to questions asked by Sgt. Craig Cooper during an Internal Affairs Investigation when he said that he never passed the rear bumper of [REDACTED] vehicle and just yelled towards him to slow down and drive safe.

Witness [REDACTED], the driver of the car stopped by Offer Green, said that after being stopped at Fair Oaks Avenue and Rollin Street, an officer came up to him and asked why he was driving so fast. [REDACTED] responded by saying he just wanted to get home and admitted to drinking and driving. He said he had a couple beers at a friend's house in Pasadena. [REDACTED] said the officer was standing at his driver's side door after being pulled over. The officer did not ask for any identification or paperwork for the vehicle and told him to wait. After about two minutes, [REDACTED] said he got scared and fled the scene.

On 2-01-12, while being interviewed at the police station in the watch commander's office, [REDACTED] positively identified Officer Green as the officer that stopped him and from whom he fled when he said, "That's the officer who stopped me."

Witness [REDACTED] spoke to [REDACTED] on 1-31-12 at approximately 1200 hours. [REDACTED] told [REDACTED] that he wanted to turn himself in for running from an officer last night. [REDACTED] took information from [REDACTED] and obtained a description of the officer. [REDACTED], when giving the information to [REDACTED], said that [REDACTED] described "Officer Green to a T."

Witness Officer [REDACTED] interviewed [REDACTED] on 1-31-12. [REDACTED], in a written statement regarding the interview, said that [REDACTED] told him the officer asked him why he was driving so fast. [REDACTED] said he was not asked to provide a license or other paperwork. He said the officer never came back and he decided to drive home. When asked if the officer gave him any indication he could leave, [REDACTED] said "No." When asked if the officer was still there when he drove away, [REDACTED] said the car was still there with the lights on.

Officer Patrick Green denied the allegation. In an interview with Sgt. Cooper on 2-01-12 at approximately 0030 hours, Officer Green said that he stopped a car for speeding and it stopped at Fair Oaks Avenue and Rollin Street. Officer Green said he never passed the rear bumper of [REDACTED] vehicle and just yelled towards him to slow down and drive safe. Officer Green said he was more concerned about the suspicious subjects he saw at the middle school. After yelling at the driver, he entered his patrol vehicle and backed up onto Fair Oaks Avenue. Officer Green was not able to locate the two suspicious subjects and did not notify dispatch of his extra patrol check of the middle school for the subjects. Officer Green said he would not be able to identify the driver of the car he stopped if he saw him again.

During a follow-up interview with Sgt. Cooper on 04-02-12 at approximately 2330 hours, Officer Green said he was standing by the rear driver's side quarter panel when he yelled at the driver of the car. Officer Green said he was only going to tell the driver to slow down due to his concern being with the two subjects he saw at the middle school. Officer Green also said he did not have his overhead take down lights or his spotlights on. He only had his overhead emergency lights on

**Classification of Allegation No. Two:**

It is recommended that Allegation No. Two be classified as **SUSTAINED**.

**Rationale of Allegation No. Two:**

Officer Green said he never passed the rear bumper or the rear driver's side quarter panel of [REDACTED] vehicle when he yelled at him to slow down and drive safe. However, [REDACTED] said he spoke to Officer Green as he stood at his driver's door. [REDACTED] was able to "describe Officer Green to a T" and, after seeing Officer Green at the police station, positively identified him when he said, "That's the officer who stopped me."

[REDACTED] came to the police station to turn himself in for running from a police officer. He said the officer was at the driver's door of his [REDACTED] car when he spoke to the officer telling him he had a couple beers at a friend's house. He said the officer did not ask for his driver's license or other paperwork, that the officer told him to wait and returned to his car, and he then fled from the officer after a short time. [REDACTED] had everything to lose by turning himself in and admitting to fleeing from the officer. This allegation should be **SUSTAINED**.

**Allegation No. Three:**

The Department alleges that on 2-02-12 at approximately 2230 hours, Officer Green was dishonest when responding to questions asked by Sgt. Craig Cooper during a follow-up interview for an Internal Affairs Investigation when he said that he was standing by the rear driver's side quarter panel when he yelled at the driver of the car.

Witness [REDACTED], the driver of the car stopped by Offer Green, said that after being stopped at Fair Oaks Avenue and Rollin Street, an officer came up to him and asked why he was driving so fast. [REDACTED] responded by saying he just wanted to get home and

admitted to drinking and driving. He said he had a couple beers at a friend's house in Pasadena. [REDACTED] said the officer was standing at his driver's side door after being pulled over. The officer did not ask for any identification or paperwork for the vehicle and told him to wait. After about two minutes, [REDACTED] said he got scared and fled the scene.

On 2-01-12, while being interviewed at the police station in the watch commander's office, [REDACTED] positively identified Officer Green as the officer that stopped him and from whom he fled when he said, "That's the officer who stopped me."

Witness [REDACTED] spoke to [REDACTED] on 1-31-12 at approximately 1200 hours. [REDACTED] told [REDACTED] that he wanted to turn himself in for running from an officer last night. [REDACTED] took information from [REDACTED] and obtained a description of the officer. [REDACTED], when giving the information to [REDACTED], said that [REDACTED] described "Officer Green to a T."

Witness [REDACTED] interviewed [REDACTED] on 1-31-12. [REDACTED], in a written statement regarding the interview, said that [REDACTED] told him the officer asked him why he was driving so fast. [REDACTED] said he was not asked to provide a license or other paperwork. He said the officer never came back and he decided to drive home. When asked if the officer gave him any indication he could leave, [REDACTED] said "No." When asked if the officer was still there when he drove away, [REDACTED] said the car was still there with the lights on.

Officer Patrick Green, during a follow-up interview with Sgt. Cooper on 04-02-12 at approximately 2330 hours, said he was standing by the rear driver's side quarter panel when he yelled at the driver of the car. Officer Green said he was only going to tell the driver to slow down, due to his concern being with the two subjects at the middle school.

**Classification of Allegation No. Three:**

It is recommended that Allegation No. Two be classified as **SUSTAINED**.

**Rationale of Allegation No. Three:**

Although Officer Green said he was standing by the rear driver's side quarter panel when he yelled at the driver to slow down and drive safe, [REDACTED] said he spoke to Officer Green when Officer Green stood at his [REDACTED] driver's door. [REDACTED] version of the account is supported by the fact that he was able to "describe Officer Green to a T" and, after seeing Officer Green at the police station, positively identified him when he said, "That's the officer who stopped me." [REDACTED] had everything to lose by turning himself in and admitting to fleeing from the officer. This allegation should be **SUSTAINED**.

**Administrative Insight:**

There are no independent witnesses to the traffic stop made by Officer Green on January 31, 2012 at 0459 hours. The only evidence that exists are the statements made by Officer Green, [REDACTED], [REDACTED], the written statement by [REDACTED], the audio record of Officer

Green informing dispatch of the traffic stop and that of him clearing from the traffic stop approximately one minute later, and the audio recordings of the interviews with Officer Green and [REDACTED]. Unfortunately, the recorder was malfunctioning and only bits and pieces of the interviews with [REDACTED] and Officer Green were captured. Because of this, I had Sgt. Cooper listened to recordings and reviewed his investigative report request and stated that his written accounts of the interviews are an accurate reflection of what was said by both Officer Green and [REDACTED].

The traffic stop occurred on Rollin immediately west of Fair Oaks. Fair Oaks has a streetlight on the northwest corner and there are no streetlights on Rollin. Officer Green said he had to back onto Fair Oaks when he cleared from the traffic stop, meaning that he was stopped on Rollin. If Officer Green got out of his police unit and stopped at the rear bumper or rear driver's side quarter panel of [REDACTED] car, he would have been backlit by the streetlight on Fair Oaks and backlit from the headlights of his police vehicle. With Officer Green being silhouetted by the backlighting, there was not adequate lighting for [REDACTED] to see Officer Green's face to enable him to provide a physical description of Officer Green to [REDACTED] who said [REDACTED]. [REDACTED] described "Officer Green to a T."

After leaving or fleeing from the traffic stop conducted by Officer Green, [REDACTED] had gotten away with the hit and run traffic accident in Pasadena and from fleeing from a traffic stop, yet he chose to turn himself in to the South Pasadena Police the following morning. [REDACTED] said Officer Green stood at the driver's door of his car and asked why he was driving so fast. [REDACTED] said he told Officer Green he just wanted to get home and admitted to drinking a couple beers at a friend's house. Officer Green went back to his police unit and [REDACTED] fled from the scene shortly thereafter.

Officer Green, on the other hand, said he could not identify the driver of the car because he only reached the rear bumper or rear driver's side quarter panel of the car and left to find two suspicious subjects he saw at the Middle School. Although Officer Green felt the two subjects he saw were suspicious, he did not inform dispatch of the two suspicious persons, did not tell dispatch that he was looking for two suspicious people, and did not request assistance to search for them as is routine, especially during the hours of darkness. This is completely contrary to how a suspicious person call is handled. All Officer Green told dispatch was that he was clearing from the traffic stop and that he warned the driver. This would have been the time where he should have informed dispatch of what he intended to do, that being looking for the two suspicious people.

I went to Rollin immediately west of Fair Oaks and made two mock traffic stops at 0418 hours on one day and again the next day near 0500 hours. On each occasion, I had a marked police unit stop behind my car with the overhead emergency lights and headlights turned on. On both occasions, as I sat in my car, I could not see the officer's face until he stood at the doorpost behind the driver's seat. [REDACTED] could not have seen Officer Green's face if he stood at the rear bumper or rear quarter panel of [REDACTED] car.

[REDACTED] had everything to lose by turning himself in and admitting to fleeing from Office Green. [REDACTED] version of what occurred, that Officer Green stood at the driver's door of

Mr. Saltero's car and spoke to him, is supported by the fact that he clearly described Officer Green to [REDACTED] and later positively identified him as the officer who stopped his car in South Pasadena.

Department records show only one contact with [REDACTED] prior to the January 31, 2012 (log item dated June 16, 2011 - included) and that was a pedestrian stop by Officer [REDACTED]. Officer Green was not on duty that day. There is no information available to suggest [REDACTED] is lying about what occurred during the incidents in South Pasadena and Pasadena. Although his version conflicts with that of Officer Green, [REDACTED] statement is credible because he turned himself in to the police, provided physical description of the officer that stopped him where [REDACTED] said he described Officer Green to a "T", and the fact that he positively identified Officer Green after an accidental encounter at the police station.

Officer Green, while working Sgt. Cooper, left work a few minutes early almost daily until he was counseled by Sgt. Cooper. Although not inappropriate, after the counseling, Officer Green start leaving immediately at the end of his shifts. One of the reasons Officer Green may not have investigated this incident properly is because it occurred one hour before the end of his shift, which is 0600 hours, and DUI investigations can easily take a few hours

This is not the first incident where Officer Green has failed to take appropriate action in the performance of his duty or exercised poor judgment. In personnel complaint IA 2009-03, Officer Green received a one-day suspension for failing to properly investigate a hit and run traffic accident where the suspect was identified. In another incident, Officer Green allowed an unlicensed juvenile cadet (under the age of 18-years) to drive a department vehicle. The cadet was involved in a traffic collision and she was determine to be the at fault party. Officer Green was involved in two additional incidents with this cadet. In one of the incidents, it was alleged that Officer Green, while off duty, was at the cadet's home. The cadet, who was under the age of 18 years, was seen sitting on Officer Green's lap in a darkened room. The investigation was found to be unsubstantiated because Officer Green denied the allegation and the cadet refused to be interviewed. In the other incident, Officer Green was at the same cadet's apartment in the City of Alhambra while he was on duty and did not inform dispatch that he was out of the city. The cadet was no longer associated with the City at this time and she was an adult. The cadet was not home at the time, but a male adult living with her was at home. A final issue with Officer Green occurred on two separate occasions where Captain Wheelless and I responded to Pitchess Motions regarding Officer Green. On each occasion, the judges reviewed all of the Internal Investigation files, about six of them, and each commented on the investigations putting us on notice by asking us if we recognized that we have a problem with this officer. On each occasion, the Chief of Police was notified of the judges' comments.

**Penalty Recommendations:**

It is recommended the Officer Timothy (Pat) Green's employment with the City be terminated.

**Alleged Violation for Allegations No. One, Two, and Three:**

SOUTH PASADENA POLICE DEPARTMENT DUTY MANUAL

VOLUME 4

Chapter 7

640                    GROUND FOR DISCIPLINARY ACTION

Disciplinary action may be taken for any cause, which may include, but not be limited to the following, insofar as they relate to the employee's ability to perform the functions required by his employment with the City:

- (c)      Inefficiency of inexcusable neglect of duty, i.e., failure to perform duties required of an employee within his position.
- (e)      Dishonesty, involving employment.

SOUTH PASADENA POLICE DEPARTMENT DUTY MANUAL

VOLUME 4

Chapter 7

705.02 CANON TWO:            PEACE OFFICERS SHALL BE AWARE OF AND SHALL USE PROPER AND ETHICAL PROCEDURES IN DISCHARGING THEIR OFFICIAL DUTIES AND RESPONSIBILITIES.

Peace officers shall be subject to disciplinary action for unprofessional conduct whenever:

- e.        They with intent to deceive or misrepresent, omit relevant facts or otherwise falsify information, testimony, or evidence which they provide in their official capacity.

CITY OF SOUTH PASADENA PERSONNEL RULES AND REGULATIONS

Rule 11.            Disciplinary Actions

11.3 Grounds for Disciplinary Action

Disciplinary action may be taken for any cause, which may include, but not be limited to the following, insofar as they relate to the employee's ability to perform the functions required by his employment with the City:

- (c) Inefficiency of inexcusable neglect of duty, -i.e., failure to perform duties
- (e) Dishonesty, involving employment.



**CITY OF SOUTH PASADENA**  
**POLICE DEPARTMENT**  
Inter-Office Memorandum

To: Richard Kowaltschuk, Captain

From: Craig Cooper, Sergeant

Date: August 12, 2012

Subject: I.A. Case Number 2012-02 Investigation – Officer Patrick Green

**Note:** The narrative portion of this document was sent to me (Captain Richard Kowaltschuk) by Sgt. C. Cooper on August 8, 2012 and was placed on the Inter-Officer Memorandum form by me with Sgt. C. Cooper's permission.

**COMPLAINT:**

On 01/31/12, at 0459 hours, Officer Green initiated a traffic stop on a black [REDACTED] (CA license plate # [REDACTED]) at the intersection of Fair Oaks Avenue and Rollin Street in the City of South Pasadena. It is alleged that Officer Green made contact with the driver ([REDACTED] DOB: [REDACTED]) who admitted drinking six beers and being under the age of 21 and operating a vehicle. In addition [REDACTED] alleged that he fled from police while waiting for Officer Green's clearance to leave the scene of the traffic stop. Upon which Officer Green did not attempt to stop him from fleeing the scene.

**SUMMARY:**

On 01/31/12 at about 0456 hours, [REDACTED], [REDACTED] was involved in a hit and run collision in the City of Pasadena. After fleeing the scene of the collision [REDACTED] was traveling at a high rate of speed through the City of South Pasadena in order to get home to his residence on [REDACTED] Avenue. At the intersection of Fair Oaks Avenue and Rollin Street in the City of South Pasadena, Officer Green conducted a traffic stop on [REDACTED]

On 01/31/12, at 0459 hours, Officer Green initiated a traffic stop on a black [REDACTED] (CA license plate # [REDACTED]) at the intersection of Fair Oaks Avenue and Rollin Street in the City of South Pasadena. The traffic stop lasted approximately one minute and Officer Green advised "10-8 warned" [REDACTED] said Officer Green came up to his window and asked why he was driving so fast. During the contact [REDACTED] said he told Officer Green that he had been drinking. Officer Green did not ask for his license or vehicle information and walked back the police vehicle. After about two minutes of no contact with Officer Green, [REDACTED] fled the scene of the traffic stop and drove home to his residence located at [REDACTED] Avenue. Later the same day at

approximately 1200 hours, [REDACTED] came into the South Pasadena Police Department Lobby in an attempt to turn himself into police for fleeing the scene of the traffic stop.

It was unclear at the time [REDACTED] was at the station as to the nature of his contact with the police. Based on [REDACTED] coming into the police station and advising Officer [REDACTED] of his conduct and contact with Officer Green this investigation was opened to determine if Officer Green was involved in any misconduct.

### **ALLEGATION:**

Dereliction of duty

### **INVESTIGATION:**

On 01/31/12, at 0459 hours, Officer Green #167 conducted a traffic stop at the intersection of Fair Oaks Avenue and Rollin Street in the City of South Pasadena on a black [REDACTED]. The vehicle's license plate ([REDACTED]) returned to [REDACTED] of Alhambra. As Officer Green approached the vehicle he noticed two male subjects across the street at the South Pasadena Middle School. Being distracted by the suspicious subjects Officer Green walked to the front of his patrol car and stopped between his patrol vehicle and the black [REDACTED]. Officer Green then yelled towards the driver, to "slow down and drive safe." Officer Green being more concerned about the suspicious subjects at the middle school walked back to his patrol vehicle and drove over to the school in order to contact the subjects he observed, Officer Green cleared the traffic stop (10-8 warned) by 0500 hours. Officer Green was unable to locate the two subjects and did not notify dispatch of his extra patrol check of the middle school for the subjects.

On 01/31/12, at 0508 hours, dispatch was contacted by Pasadena Police Dispatch and advised of a hit & run that occurred 12 minutes prior and was last seen driving southbound on Fair Oaks Avenue towards South Pasadena. The vehicle was described as a black SUV. P/A Rodriguez #2011 dispatched the call from Pasadena PD to field officers. After hearing the report from Pasadena [REDACTED] # [REDACTED] telephoned Rodriguez and advised her that the vehicle Officer Green had stopped matched the description of the hit & run suspect vehicle from Pasadena. Officer [REDACTED] had driven past the [REDACTED] on Fair Oaks Avenue just prior to Officer Green conducting his enforcement stop, which is why he knew the description of the SUV.

On 01/31/12, at approximately 1200 hours, [REDACTED] came into the South Pasadena Police Department Lobby and met with Police [REDACTED] #2020 and told him that he [REDACTED] wanted to turn himself in for running from the police earlier that morning. [REDACTED] told Officer

█████ # █████ about the contact. █████ met with █████ in the station lobby and took █████ personal information down and advised him that we would be in touch if a report was taken.

On 01/31/12, at about 1800 hours, Sgt. Bartl contacted me and told me of █████ coming into the police station in order to turn himself in. I then received █████ information from █████ I had █████ complete a statement of facts regarding his interview with █████ through e-mail. █████ told me that █████ said he was stopped at about 0500 hours, earlier that morning at the intersection of Fair Oaks Avenue and Rollin Street. I checked with P/A Rodriguez and discovered that Officer Green was the Officer who initiated a traffic stop at the time and location given.

I crossed referenced the plate Officer Green gave during his traffic stop and the information provided by █████. █████ driver's license returned to █████ Avenue in the █████. I drove to the █████ address and met with █████ landlord █████ of █████ Avenue. █████ gave me permission to check the rear driveway for █████. After walking to the rear of the property I observed a black █████ Ca. license plate number █████ parked behind █████. The █████ had major front end damage, which matched the report from Pasadena PD. I impounded the █████ under CVC 22655.5(b) vehicle as evidence; █████ tow transported the vehicle to the South Pasadena Police Station. █████ told me he might be able to locate █████. I advised █████ that it would be in █████ best interest if he came and met with me as soon as possible. █████ then drove away from the location. As I was having the vehicle towed █████, █████ came walking up to me and said "hey it's me you're looking for." I asked █████ if he had been involved in a collision earlier in the morning and he replied "yes." I also asked if he had walked into the police station in an attempt to turn himself into the police; he again replied "yes."

I asked █████ to tell me what happened. █████ told me that he had been involved in a collision earlier that morning in the City of Pasadena in or around the area of Fair Oaks Avenue and Green Street. He told me that he was driving southbound on Fair Oaks Avenue approaching Green Street at an unknown speed. █████ said there was a red light at Green Street and a vehicle was stopped in front of him. He applied the brakes however, was unable to stop and collided with the other vehicle. █████ could not provide me with a description of the vehicle or driver. He said he was so nervous that he couldn't remember. After the collision █████ exited the vehicle and asked the driver if he was ok. The driver was noticeably upset and angry but appeared to be uninjured. I asked him how he could not provide a description of the driver even though he was talking to him. █████ still said he couldn't remember anything other than the driver was a male Hispanic.

█████ then re-entered his vehicle and fled the scene without providing any insurance information. The driver of the vehicle █████ hit then called the Pasadena Police Department in order to report the hit & run. █████ fled southbound on Fair Oaks Avenue into the City of South Pasadena. █████ said he was stopped by a South Pasadena Police Officer at Fair Oaks Avenue and Rollin Street. █████ said the officer came up to him and asked why he was driving so fast. █████ responded by saying he just wanted to get home and admitted to drinking and driving. █████ said he had about six beers at a friend's house in Pasadena. █████ said the officer was standing at his driver side door after being pulled over. █████ said the officer didn't ask for any

identification or paperwork for the vehicle and told him to wait. After about two minutes [REDACTED] said he got scared and fled the scene of the traffic stop. [REDACTED] said he drove straight home and parked his vehicle out of sight and didn't report anything to anyone. [REDACTED] said he ran from the cops because he was scared and didn't know what to do.

When he woke up later in the day he said he felt guilty about what had happened and came into the police station to turn himself in. This is when [REDACTED] met with [REDACTED]. I then asked [REDACTED] to accompany me to the police station for a follow up. [REDACTED] said he would, I explained to him that he was not under arrest and he was under no obligation to cooperate with me. [REDACTED] said he understood and wanted to cooperate with my investigation. Corporal Jacobs who arrived to assist conducted a pat down search of [REDACTED] and determined he was not carrying any dangerous weapons. I drove [REDACTED] to the station for a follow up interview. [REDACTED] was not handcuffed and was seated in the front passenger seat of my patrol vehicle.

On my arrival at the police station I telephoned the Pasadena Police Department and spoke with Officer [REDACTED] regarding case number [REDACTED], the hit & run collision from earlier in the morning. I told [REDACTED] about my findings and asked if he wanted to photograph the suspect vehicle and interview [REDACTED]. [REDACTED] advised that he and his training [REDACTED] would respond for a follow up. Both officers arrived shortly after in order to interview [REDACTED] and photograph the SUV. In addition party two from the hit and run collision arrived at the South Pasadena Police Department and positively identified [REDACTED] as the driver involved in the collision. While [REDACTED] was sitting in the Watch Commanders office Officer Green knocked on the door and showed me a bag of evidence from an earlier unrelated call. After I finished talking with Officer Green and closed the door, [REDACTED] pointed towards Officer Green and said "that's the officer who stopped me." He was later cited by Pasadena Police Officer [REDACTED] for the hit & run and released. [REDACTED] tow released the SUV back into the custody of [REDACTED].

Based on the totality of this investigation I believed that Officer Green may have neglected his duties as a South Pasadena Police Officer. Based on the above investigation and pursuant to AB 301 (POBR) I arranged for Green to come into the police station for a formal interview. Prior to conducting the interview I telephoned Capitan Kowaltschuk and advised him of the circumstances. Capitan Kowaltschuk authorized me to continue my investigation.

**GREEN date unknown:**

I contacted Officer Green via radio and advised him to meet with me at the station. Upon Officer Green's arrival I told him about the subject matter I needed to discuss with him and asked him if he wanted an attorney or a POA representative. Green had Corporal Jacobs #182 accompany him during the interview. I placed my digital recorder in the on position and identified both the South Pasadena case number and the Pasadena case number regarding this incident. I then noted the date, and time, of the interview (02/01/2012, 0031 hours) which was within Officer Green's normal duty day. The interview was conducted in the Watch Commanders office by me (Sgt. Cooper #184 Watch Commander/Patrol). Corporal Jacobs #182 (Patrol) served as Officer Green's representation. No Lybarger & Miranda warnings were given or required. I then explained the nature of my investigation.

Officer Green was cooperative during the entire interview process. After I explained the above circumstances to Green he replied with the following statement: Green said he was stopped at McDonald's restaurant on Fair Oaks Avenue in the City of South Pasadena working lidar for speed enforcement. He said as he pulled around McDonald's he was able to see the SUV from the rear due it already passing his position. He confirmed a speed of 43MPH (Posted speed limit 30MPH) and drove after the SUV. Officer Green activated his overhead emergency lights and conducted an enforcement stop of the vehicle at the intersection of Fair Oaks Avenue and Rollin Street. Officer Green told me the reason he didn't smell any alcohol or [REDACTED] breath is due to the fact he never got close enough to do so. Officer Green said he wouldn't even be able to identify the driver if he saw him again. As mentioned in this report Officer Green said he never passed the rear bumper of [REDACTED] vehicle and just yelled towards him to slow down and drive safe. Officer Green was more concerned about the suspicious subjects at the middle school. Officer Green further stated that when [REDACTED] stopped his vehicle he pulled onto Rollin Street from Fair Oaks Avenue. Officer Green's patrol vehicle was still on Fair Oaks Avenue. When Officer Green yelled at the driver he re-entered his patrol vehicle and backed up onto Fair Oaks Avenue and never saw the front end of the vehicle and did not notice any damage as a result. This was done in order to respond to the middle school.

I then asked Officer Green about his conversation with Officer [REDACTED] about the traffic stop. Officer [REDACTED] told Officer Green that the vehicle he had stopped was more likely to be the suspect vehicle involved in the hit & run in Pasadena. Officer Green again said he didn't know due to never seeing the front end. Furthermore Officer Green didn't suspect the vehicle he had stopped to be the suspect vehicle also due to a 12 minute time delay from the Pasadena dispatcher. There were no independent witnesses to the traffic stop with [REDACTED].

#### **GREEN 4-02-12:**

On 04/02/12, at about 2230 hours, I conducted a follow up interview with Officer Green regarding case number DR#12-0284. Officer Green declined to have representation with him during the interview. Specifically I asked Officer Green if he had any of his overhead lighting systems on during the traffic stop. Officer Green said that he did not have his overhead take down lights on, nor did he have his spot lights turned on. He only had his overhead emergency lights on. I again asked where he was standing during the traffic stop. Officer Green again said he was standing by the rear driver side quarter panel. I asked Officer Green why he didn't activate his spot lights or take down lights. Officer Green told me that he was only going to tell the driver to slow down, due to his concern being with the two subjects at the middle school.

#### **[REDACTED] 4-03-12:**

On 04/03/12, at about 0245 hours, [REDACTED] came into the South Pasadena Police Department for a follow up interview. I asked [REDACTED] regarding the specifics of the traffic stop conducted by Officer Green. I asked [REDACTED] which lights were activated on the police vehicle when he was stopped. [REDACTED] said after the initial stop Officer Green turned off all his lights. I asked [REDACTED] to clarify which lights he was talking about the red and blue emergency lights or white lights. [REDACTED] told me all of the lighting was shut off when Officer Green pulled him over. The red and blue rotating lights were used in order to get him to stop and then all lighting was shut down after he pulled over.

After Officer Green advised [REDACTED] to slow down and Officer Green walked back to his vehicle, I asked [REDACTED] if it was possible that Officer Green had pulled away from behind his SUV without him realizing it. [REDACTED] said it was possible due to him not looking in the rear view mirror and not looking over his shoulder and back at the police vehicle.

**[REDACTED] Statement:**

On 1-31-12 Dispatch advised that there was a hit and run that had just occurred in Pasadena. The vehicle was described as a black [REDACTED] with front end T/C damage. A short time before the broadcast I was traveling northbound on Fair Oaks Avenue and saw a black [REDACTED] SUV traveling southbound Fair Oaks Avenue. As the vehicle passed I noticed that there was a front headlight out and the light appeared to be out from body damage to the SUV. I heard Officer Green conduct a traffic stop shortly after at the area of Fair Oaks Avenue and Rollin Street. Dispatch advised that there were no wants or warrants attached to the vehicle plate and it returned to a [REDACTED]. Shortly after Officer Green cleared from his traffic stop is when Dispatch advised of the hit and run. Just prior to end of watch I spoke with Officer Green #167 about a vehicle he had recently conducted a traffic stop on. I asked Officer Green if the vehicle he stopped was a black SUV with T/C damage to the front of the vehicle and he said that he did not see the front of the vehicle and did not see if there was damage.

**[REDACTED] Statement:**

On 01-31-12, during daytime hours [REDACTED] asked me for assistance at the front counter. [REDACTED] told me a male subject said he had run from an officer last night and wanted to turn himself in. I asked [REDACTED] to gather more information, including a physical description of the officer and approximate time of stop [REDACTED] returned and told me the subject described "Officer Green to a T" and the stop was around 0500 hours. I walked outside with [REDACTED] and contacted [REDACTED]. I asked him what happened and he told me he was driving southbound on Fair Oaks Avenue at a high rate of speed when he got pulled over at Fair Oaks Avenue and Rollin Street. He said the officer asked him, "Why are you going so fast?" [REDACTED] said he was not asked to provide a license or any other paperwork. [REDACTED] then said the officer never came back and after about two minutes, he decided to drive home to [REDACTED] Avenue. I asked him if the officer ever gave him an indication that he was done with the stop by saying something like, "Okay get out of here." [REDACTED] said, "No." I asked him if the officer's car was still behind him when he left and he said the car was still behind him with the lights on [REDACTED] told me he had been drinking and felt very guilty for taking off on the officer. He told me he wanted to turn himself in. I took down [REDACTED] information and ran a wants and warrants check, which did not reveal any outstanding warrants.

**WITNESS LIST:**

- 1) Green, Patrick  
[REDACTED] Street  
South Pasadena, CA [REDACTED]  
(626) [REDACTED]
- 2) [REDACTED]  
[REDACTED] Avenue  
South Pasadena, CA [REDACTED]  
(626) [REDACTED]

**ADDENDA ITEMS:**

- 1) Hit & Run traffic collision report (Pasadena PD #12001564)
- 2) CHP 180 (12-0284)
- 3) Photo's and CD of vehicle damage
- 4) DMV printout of [REDACTED] & [REDACTED]
- 5) [REDACTED] statement
- 6) [REDACTED] statement
- 7) CD of digital recordings, Green/[REDACTED]



SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET  
INCIDENT REPORT  
1422 MISSION STREET, SOUTH PASADENA, CA, 91030  
PHONE: 626-403-7270 FAX: 626-403-7271

LOCATION OF OCCURRENCE / ADDRESS [REDACTED] AV, BEHIND [REDACTED] REAR OF LOC		DATE / TIME REPORTED 01/31/2012 19:17	CASE NO. 120284
CODE SECTION CANDR#	CRIME CANCELLED CASE REPORT NUMBER	CLASSIFICATION ADMINISTRATIVE	LOSS 0 RECOVERY 0
FROM: DATE/TIME 01/31/2012 19:17	TO: DATE/TIME 01/31/2012 20:43	APPROVED YES	CASE STATUS C9-NON CRIMINAL MATTER
ADDITIONAL CATEGORIES		ITEMS IN REPORT	
<input type="checkbox"/> ALCOHOL RELATED	<input type="checkbox"/> DRUGS INVOLVED	<input type="checkbox"/> SENIOR CITIZEN	<input type="checkbox"/> ARREST OCCURED
<input type="checkbox"/> TRAFFIC RELATED	<input type="checkbox"/> GROUP/GANG INVOLVED	<input type="checkbox"/> WEAPONS INVOLVED	<input type="checkbox"/> DOMESTIC VIOLENCE
		<input type="checkbox"/> SUPPLEMENT	<input checked="" type="checkbox"/> PICTURE/IMAGES
		<input type="checkbox"/> FOLLOW UP	<input type="checkbox"/> PROPERTY/EVIDENCE
COPIES TO			
<input type="checkbox"/> DETECTIVES	<input type="checkbox"/> PMC JUVENILE DA	<input type="checkbox"/> SUBJECT RESISTANT	<input type="checkbox"/> DETECTIVES-EVIDENCE
<input type="checkbox"/> CHIEF	<input type="checkbox"/> DA'S OFFICE	<input type="checkbox"/> ALH COURT TRAFFIC DIV	<input type="checkbox"/> MARSY'S LAW INFO GIVEN
<input type="checkbox"/> PMC TRAFFIC DIV	<input type="checkbox"/> CITY MANAGER	<input type="checkbox"/> PMC JUV TRAFFIC DIV	<input type="checkbox"/> ALCOHOL BEVERAGE CONTF
<input type="checkbox"/> GRAFFITI			

NARRATIVE

REPORTING OFFICER COOPER, CRAIG L	REVIEWED BY NEFF, MICHAEL JOHN	APPROVAL DATE 02/13/2012
SIGNATURES	PRINT DATE AND TIME 02/22/2012 16:29	PRINTED BY GONZALES, IDESSA
		PAGE NO. 1 of 1



[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Tuesday, January 31, 2012 6:31 PM  
**To:** Craig Cooper  
**Subject:** 01-31-12

On 01-31-12, during daytime hours, [REDACTED] asked me for assistance at the front counter. [REDACTED] told me a male subject said he had run from an officer last night and wanted to turn himself in. I asked [REDACTED] to gather more information, including a physical description of the officer and approximate time of stop. [REDACTED] returned and told me the subject described "Officer Green to a T" and the stop was around 0500 hours. I walked outside with [REDACTED] and contacted [REDACTED]. I asked him what happened and he told me he was driving southbound on Fair Oaks Avenue at a high rate of speed when he got pulled over at Fair Oaks Avenue and Rollin Street. He said the officer asked him, "Why are you going so fast?" [REDACTED] said he was not asked to provide a license or any other paperwork. [REDACTED] then said the officer never came back and after about two minutes, he decided to drive home to [REDACTED]. I asked him if the officer ever gave him an indication that he was done with the stop by saying something like, "Okay get out of here." [REDACTED] said, "No." I asked him if the officer's car was still behind him when he left and he said the car was still behind him with the lights on. [REDACTED] told me he had been drinking and felt very guilty for taking off on the officer. He told me he wanted to turn himself in. I took down [REDACTED] information and ran a wants and warrants check, which did not reveal any outstanding warrants.

- Officer [REDACTED]

## **Richard Kowaltschuk**

---

**From:** Craig Cooper  
**Sent:** Wednesday, August 08, 2012 6:39 AM  
**To:** Richard Kowaltschuk  
**Subject:** Green IA

Sir,

During my investigation/interview of Officer Green it is my recollection that the interview lasted a considerable more time than the indicated 6 minutes of recording time. My digital recorder malfunctioned during my interview. All statements made during this investigation are true and correct.

Cooper

## **Richard Kowaltschuk**

---

**From:** Craig Cooper  
**Sent:** Wednesday, August 08, 2012 6:39 AM  
**To:** Richard Kowaltschuk  
**Subject:** Green IA

Sir,

During my investigation/interview of Officer Green it is my recollection that the interview lasted a considerable more time than the indicated 6 minutes of recording time. My digital recorder malfunctioned during my interview. All statements made during this investigation are true and correct.

Cooper

SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET  
CAD Full Report

Date: 06/16/2011 18:48 Event Nbr: 11-06-16-014401 Report Nbr: Rec'd Via: GENERAL PHONE

Initial Incident: PEDSTP - PEDESTRIAN STOP

Final Incident: PEDSTP - PEDESTRIAN STOP

Business:

Detail:

Street Nbr: 1700 Name: [REDACTED] AVE Apt Nbr:

Reporting Person: Phone:

Address:

Police Information:

C4  
W9-F1765817/[REDACTED] 03/29/92//NONE ISSUED  
PED STOP

Public Information:

PEDESTRIAN STOP//CONTACTED

Disposition: CONTACTED / ADVISED

- ☐ Issue Report ☐ Arrest ☐ Media Log  
☐ Alarm Response ☐ False Alarm ☐ Service Call

Units Involved:	Activity	Dispatch	Enroute	Arrived	Cleared
190 - [REDACTED]	OI	18:49	18:49	18:49	18:50
190 - [REDACTED]					

Master Names

INV: CONT Name: [REDACTED] Suffix:

Race: Sex: M Age: 19.00 DOB: [REDACTED]

Height: 5.10 Weight: 215 Hair: BRO Eye: BRO

SSN: Driver's Lic No: [REDACTED] Student ID: Type:

Phones:

ADDRESS TYPE	STREET NUMBER	STREET NAME	SUITE NUMBER	CITY	STATE	ZIP
Home	[REDACTED]	[REDACTED]	D	ALHAMBRA	CA	91801

Received

NOV 26 2012

CHIEF'S OFFICE

Watch Activity Report October 25, 2011 thru Febraury 27, 2012

	Arrest	DUI Arrest	Citations	Reports	CFS	Parking Cites
██████	5	0	6	8	145	8
██████	5	0	8	12	250	34
Green	2	1	4	9	728	63
██████	12	1	24	37	565	37
██████	25	7	20	43	472	2
<b>Total</b>	<b>47</b>	<b>9</b>	<b>62</b>	<b>109</b>	<b>2,160</b>	<b>144</b>

██████	13	5	12	21	320	1
██████	11	1	19	18	356	2
██████	5	0	20	12	531	2
██████	12	2	6	35	369	0
██████	37	9	42	76	562	59
<b>Total</b>	<b>78</b>	<b>17</b>	<b>99</b>	<b>162</b>	<b>2,138</b>	<b>64</b>

Watch Activity Report Febraury 28, 2012 thru June 11, 2012

	Arrest	DUI Arrest	Citations	Reports	CFS	Parking Cites
██████	3	1	5	5	155	5
██████	12	1	20	15	391	40
Green	0	0	10	7	915	165
██████	9	1	26	25	540	48
██████	18	4	29	31	403	34
<b>Total</b>	<b>42</b>	<b>7</b>	<b>90</b>	<b>83</b>	<b>2,404</b>	<b>292</b>

██████	9	7	7	12	151	0
██████	26	9	26	46	315	0
██████s	2	0	5	3	70	0
██████	9	1	16	31	366	0
██████	41	24	40	67	569	1
<b>Total</b>	<b>87</b>	<b>41</b>	<b>94</b>	<b>159</b>	<b>1,471</b>	<b>1</b>

**Watch Activity Report June 12, 2012 thru October 15, 2012**

	Arrest	DUI Arrest	Citations	Reports	CFS	Parking Cites
██████	1	0	2	6	262	0
██████	3	0	4	6	275	22
██████	12	1	34	31	414	31
Green	1	0	16	13	848	113
██████	5	1	6	28	339	14
<b>Total</b>	<b>22</b>	<b>2</b>	<b>62</b>	<b>84</b>	<b>2,138</b>	<b>180</b>
██████	13	8	15	13	206	6
██████	25	9	26	28	235	0
██████	3	0	25	8	522	3
██████	26	19	58	34	562	0
██████	19	3	27	36	390	0
██████	42	10	105	72	839	1
<b>Total</b>	<b>128</b>	<b>49</b>	<b>256</b>	<b>191</b>	<b>2,754</b>	<b>10</b>

PAGE 01 01/15/15 13:41:16 SOPO PRINT REQUESTED BY TERMINAL S000  
TO: S000 FROM: CLETS 01/15/15 13:41:11  
4SPA0S000M.IN

DATE:01-15-15\*TIME:13:41\*

MATCHED ON:\*L/N\*F/N\*B/3

DMV RECORD FOR LAW ENFORCEMENT USE ONLY

DL/NO: [REDACTED] \*B/D: [REDACTED] \*NAME: [REDACTED]  
MAIL ADDR AS OF 08-19-11:1506 [REDACTED] AVE S PASADENA 91030\*  
OTH/ADDR AS OF 05-06-10: [REDACTED] ST APT [REDACTED] ALHAMBRA \*

IDENTIFYING INFORMATION:

SEX:MALE\*HAIR:BROWN\*EYES:BRN\*HT:5-10\*WT:207\*

ID CARD MLD:05-26-10\*EXPIRES:02-28-11\*

LIC/ISS:08-19-11\*EXPIRES:03-28-16\*CLASS:C NON-COMMERCIAL\*  
ENDORSEMENTS:NONE\*  
ORIGINAL DL ISSUE DATE:08-19-11\*

LATEST APP:

DL TYPE:ORIGINAL\*ISS/DATE: 08-19-11\*OFFICE: MBO\*BATES:LIS\*

ORGAN AND TISSUE DONOR: NO UPDATED:08-19-11  
LICENSE STATUS:  
VALID\*

DEPARTMENTAL ACTIONS:

NONE

CONVICTIONS:  
/IOL/DT CONV/DT SEC/VIOL DKT/NO DISP COURT VEH/LIC

11-17-13 02-12-14 22356B VC 49617QH B 36130 6KKC989

DMV POINT COUNT 1

FAILURES TO APPEAR:  
NONE

ACCIDENTS:

DATE/TIME LOCATION VEH LIC REPORT NO FR CASE NO

11-31-12 04 PASADENA 090913 [REDACTED] 19534805176  
PARTY FOUND MOST AT FAULT

END

PAGE 01 01/15/15 13:39:40 SOPO PRINT REQUESTED BY TERMINAL S000  
TO: SO00 FROM: CLETS 01/15/15 13:39:18  
4SPA0S00OL.IV

DATE: 01/15/15 TIME: 13:39

INSURANCE INFORMATION ON FILE

POSSIBLE FILE CODES: A( ) S( )

REG VALID FROM: 09/16/13 TO 09/16/14

LIC# YRMD:02 MAKE BTM :UT VIN :

R/O :NILA MICHAEL JOSEPH, 9733 SHADE LN CITY:PICO RIVERA C.C.:19

ZIP#:90660

SOLD:00/00/01 RCID:10/10/13 OCID:11/29/12 LOCD:3

TYPE:11 POWR:G VEH :12 BODY:0 CLAS:AD \*-YR:12

REC STATUS:

06/18/2014 RENEWAL NOTICE EXTRACTED

11/21/12 SMOG DUE 09/16/14

RIP OFC:RJ5 D:09/17/14 ID/S:410311 T:POT

V:0008300 R:0 RT:

CREDIT CARD: C

05/04/07 PREV LIC 4UIH744

#### CLEARANCE INFORMATION RECORDS:

OFFICE	WORK DATE	TECH/ID	SEQ #	VALUE	FICHE DATE	TTC
RI5	09/16/09	50	7267	00175.00	09/16/09	POT
RI5	09/20/10	45	7002	00162.00	09/20/10	POT
RI5	09/02/11	41	7148	00125.00	09/02/11	POT
175	09/24/11	E3	0013	00000.00	09/24/11	P35
143	09/07/11	10	8275	00000.00		PRIOR SUSPENSE
U79	01/19/12	BA	0000	00000.00	00/00/00	Z02
Q85	03/12/12	BA	0000	00000.00	00/00/00	Z04
591	11/15/12	C4	0016	00174.00	11/21/12	F00
RI5	10/07/13	70	7016	00113.00	10/07/13	POT

04/28/2007-ODOMETER: 71,569 MILES ACTUAL MILEAGE

END

\*\*\*\*\*

TO: SO00 FROM: CWS IW 01/15/15 13:39:18  
INFO\* - CA NO HIT

\*\*\*\*\*

\*\*\*\*\*

TO: SO00 FROM: NCIC 01/15/15 13:39:19  
SPA0S00OL.IJ  
L01ILOSQSPA0GL2YSA  
A0197000

IO RECORD LIC/ LIS/CA



\*\*\*\*\*

TO: SOOO FROM: CLETS

01/15/15 13:39:19

4SPA0SO0OL.A

QV.CA0197000.LIC/ [REDACTED].LIS/C

NO HITS

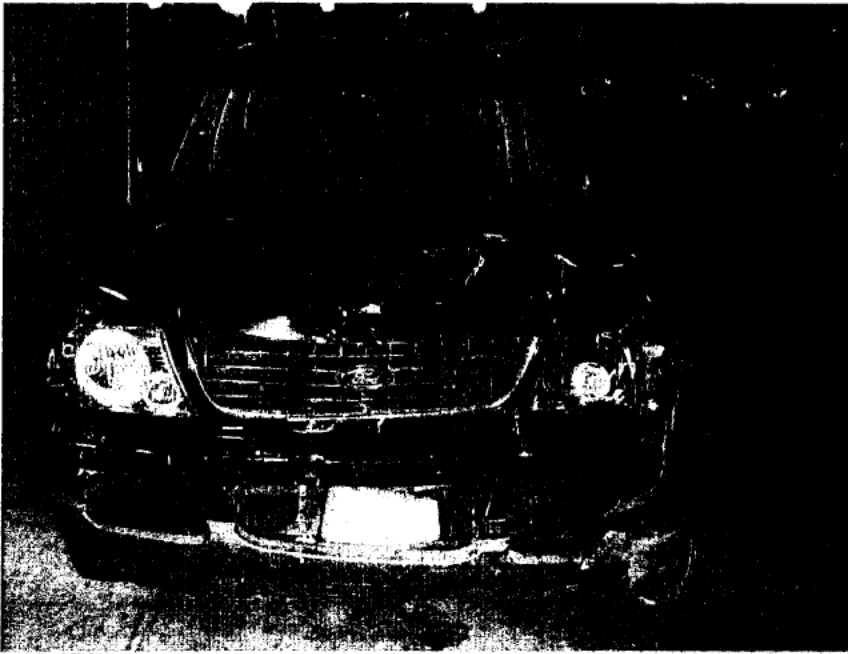
NO NEAR MISS

SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET

Photos

CASE NUMBER:

120284



DESCRIPTION:

DSCN0194.JPG

NOTES:

SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET  
Photos

CASE NUMBER:

120284



DESCRIPTION:

DSCN0202.JPG

NOTES:

SOUTH PASADENA POLICE DEPARTMENT

1422 MISSION STREET

Photos

CASE NUMBER:

120284



DESCRIPTION:

DSCN0206.JPG

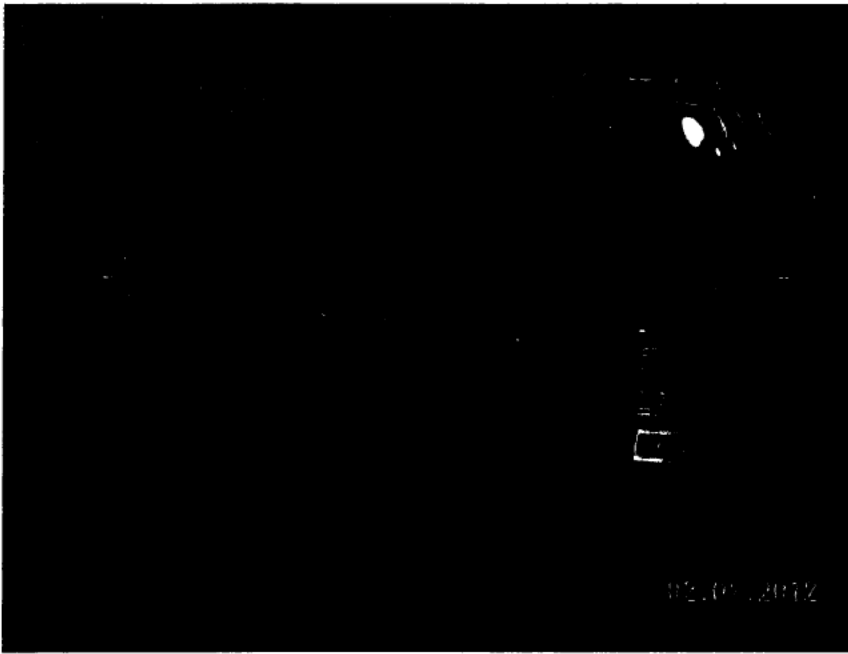
NOTES:

SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET

Photos

CASE NUMBER:

120284



DESCRIPTION:

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NOTES:

SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET  
Photos

CASE NUMBER:

120284



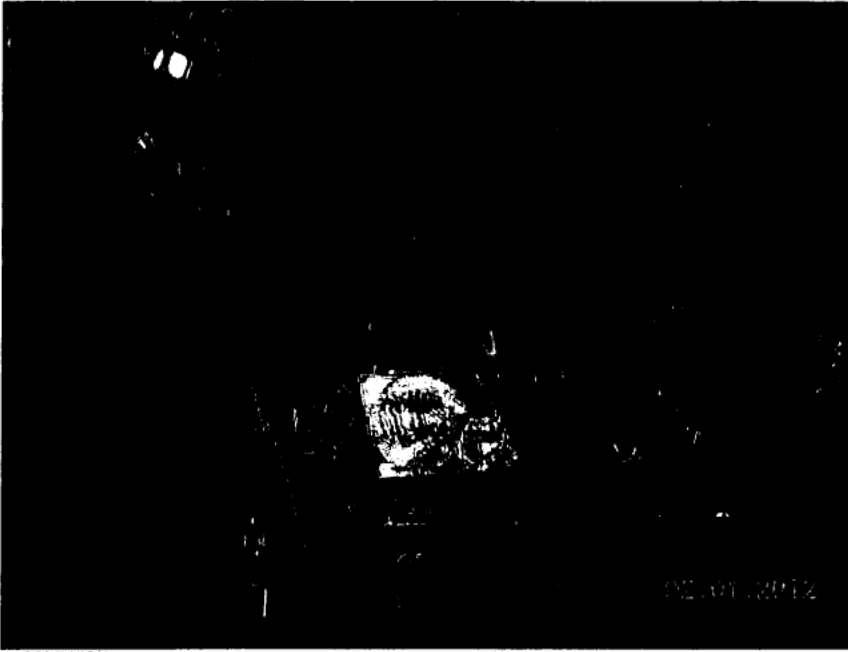
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NOTES:

SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET  
Photos

CASE NUMBER:

120284



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NOTES:

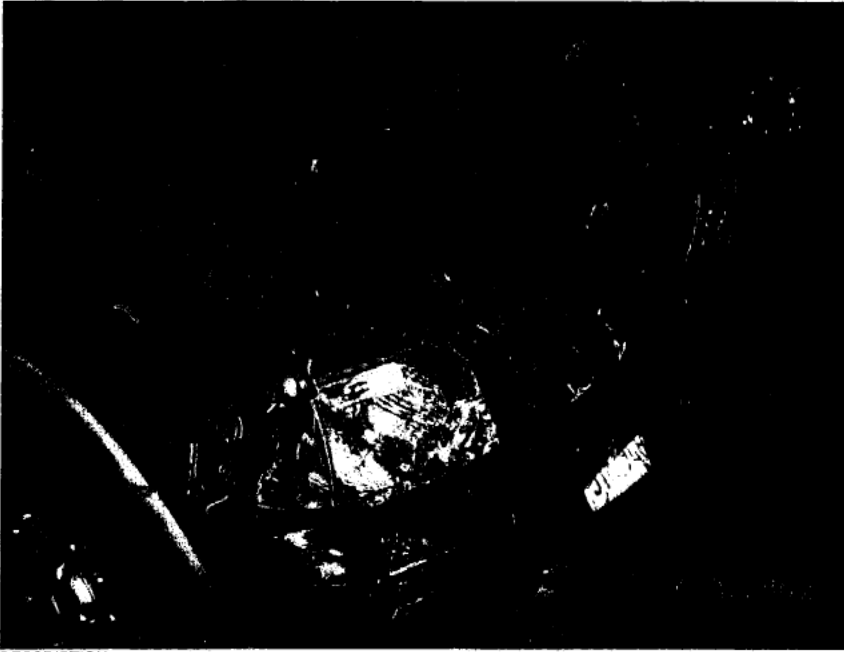
SOUTH PASADENA POLICE DEPARTMENT

1422 MISSION STREET

Photos

CASE NUMBER:

120284



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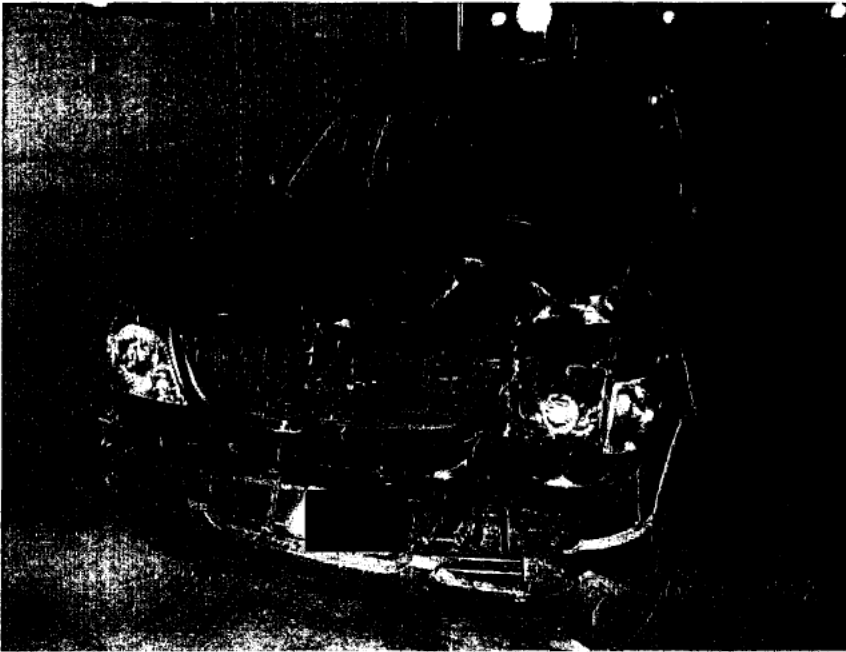
NOTES:



SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET  
Photos

CASE NUMBER:

120284



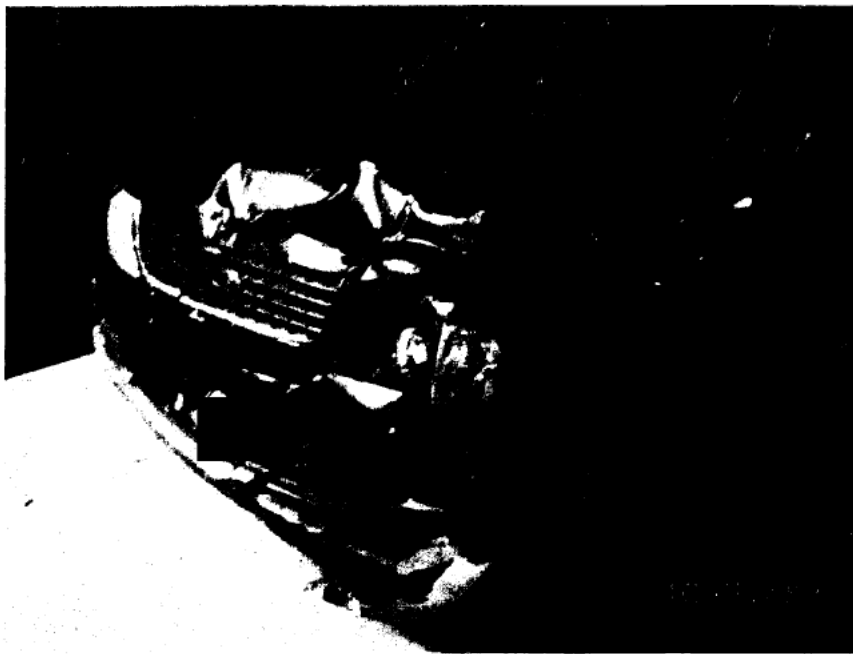
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NOTES:

SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET  
Photos

CASE NUMBER:

120284



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NOTES:

SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET  
Photos

CASE NUMBER:

120284



DESCRIPTION:

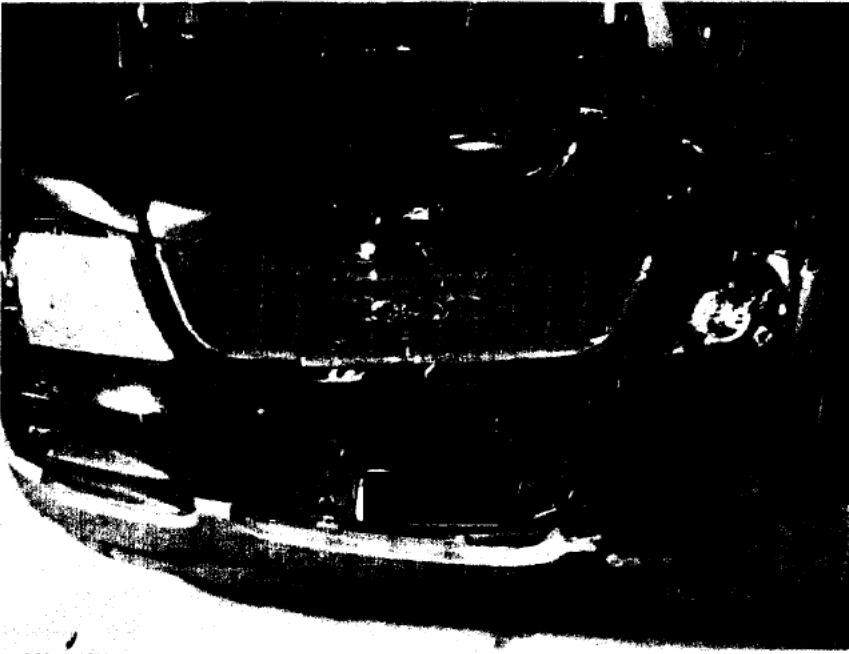
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NOTES:

SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET  
Photos

CASE NUMBER:

120284



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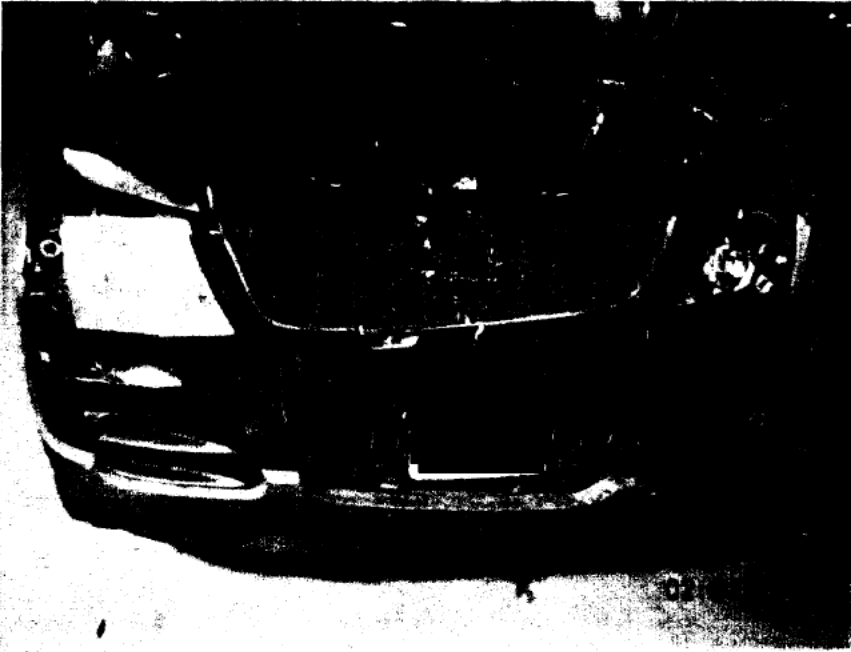
NOTES:

SOUTH PASADENA POLICE DEPARTMENT  
1422 MISSION STREET

Photos

CASE NUMBER:

120284



DESCRIPTION:

DSCN0199.JPG

NOTES:

GREEN TRANSCRIPTION

TRANSCRIPT OF AUDIO RECORDING  
GREEN TS

Transcribed By:

TERRI NESTORE

CSR No. 5614, RPR, CRR

AUTOMATED VOICE: Tuesday, January 31st, 2012.

The time, 4:59 a.m.

OFFICER 1: 67 traffic.

OFFICER 2: 67.

OFFICER 1: Rollin, west of Fair Oaks, on 5 Young  
Mary Tom 946.

AUTOMATED VOICE: Tuesday, January 31st, 2012.

The time, 4:59 a.m.

OFFICER 1: 10-4 Rollin, west of Fair Oaks, 5  
Young Mary Tom 946 vehicle's current 024 out of [REDACTED].

OFFICER 2: Thanks. We're en route to that.

OFFICER 1: 10-4.

OFFICER 2: (Unintelligible) cook.

AUTOMATED VOICE: Tuesday, January 31st, 2012.

The time, 5:00 a.m.

OFFICER 1: 26 (unintelligible).

OFFICER 2: 10-4.

AUTOMATED VOICE: Tuesday, January 31st, 2012.

The time, 5:08 a.m.

OFFICER 1: South Pasadena Police.

OFFICER 2: Yes, South Pasadena, this is  
Pasadena PD.

OFFICER 1: Mm-hmm.

OFFICER 2: We just had a hit and run in our  
city.

1 OFFICER 1: Okay.

2 OFFICER 2: It happened on Fair Oaks and Grange  
3 (phonetic).

4 OFFICER 1: Grange?

5 OFFICER 2: Yeah, Fair Oaks and Grange.

6 OFFICER 1: Okay.

7 OFFICER 2: It was actually southbound on  
8 Fair Oaks. Suspect vehicle is a black SUV, possibly a  
9 Ford Explorer. Unknown plate.

10 OFFICER 1: Any damage?

11 OFFICER 2: Not that we know of so far.

12 OFFICER 1: How long --

13 OFFICER 2: You know what, actually it's going to  
14 be front TC damage.

15 OFFICER 1: About how long ago?

16 OFFICER 2: It happened about -- I want to say  
17 like 12 minutes ago.

18 OFFICER 1: 12?

19 OFFICER 2: Yeah.

20 OFFICER 1: Okay.

21 OFFICER 2: Thank you.

22 OFFICER 1: You're welcome, bye-bye.

23 AUTOMATED VOICE: Tuesday, January 31st, 2012.

24 The time, 5:10 a.m.

25 OFFICER 1: South Pasadena Police.



1           OFFICER 2: Hey, [REDACTED].

2           OFFICER 1: Uh-huh.

3           OFFICER 2: Hey, for that hit and run.

4           OFFICER 1: Uh-huh.

5           OFFICER 2: I'm pretty sure that's the car that  
6 Green stopped. So I saw that car coming down and it  
7 looked like it had TC damage and it had a headlight out,  
8 and that's the car he pulled over.

9           OFFICER 1: The one that he just pulled over?

10          OFFICER 2: Yeah.

11          OFFICER 1: Okay.

12          OFFICER 2: So I'll... When I see him, I'll ask  
13 him about it and stuff, but I'm pretty sure that's going  
14 to be it because I'm almost positive it was a Ford  
15 Explorer.

16          OFFICER 1: Okay. Yeah, it's a Ford utility.

17          OFFICER 2: So...

18          OFFICER 1: Okay. Thank you.

19          OFFICER 2: All right.

20          OFFICER 1: Bye.

21          (End of recording.)

22

23

24


25

## C E R T I F I C A T E

I, TERRI NESTORE, Certified Shorthand Reporter/  
Transcriptionist, do hereby certify that I was authorized  
to transcribe the foregoing recorded proceeding, and that  
the transcript is a true and accurate transcription of my  
shorthand notes, to the best of my ability, taken while  
listening to the provided recording.

I further certify that I am not of counsel or  
attorney for either or any of the parties to said  
proceedings, nor in any way interested in the events of  
this cause, and that I am not related to any of the  
parties thereto.

Dated this 30th day of January, 2019.



TERRI NESTORE, CSR 5614, RPR, CRR

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GREEN TRANSCRIPTION

TRANSCRIPT OF AUDIO RECORDING  
TRACKS 1-3

Transcribed By:

TERRI NESTORE

CSR No. 5614, RPR, CRR

1 (01 Track 1)

2 OFFICER 1: That was the best thing you did.

3 So when you got stopped by the police officer,  
4 okay, tell me what like -- so when you were stopped, where  
5 did you get stopped at?

6 MALE SPEAKER 1: Right here on William.

7 OFFICER 1: Rollin and Fremont?

8 MALE SPEAKER 1: Rollin -- no.

9 OFFICER 1: Fair Oaks?

10 MALE SPEAKER 1: Yeah.

11 OFFICER 1: So tell me -- start from the  
12 beginning and tell me what happened when you got stopped.

13 MALE SPEAKER 1: Okay. Once I got stopped -- I  
14 was speeding. I mean, I was speeding because I was really  
15 freaked out.

16 OFFICER 1: Okay.

17 MALE SPEAKER 1: After that I stopped and the  
18 officer, he stopped me and he said, oh, why are you going  
19 so quick? You know, why are you speeding up? I put down  
20 the window and I was like, okay, just -- I'm freaking out.  
21 I'm not going to lie. I drank. I'm not going to lie, I  
22 drank. It doesn't matter how much, because I drank, okay?

23 Hold on, or something like that. So he went to  
24 the back of his car and he was just writing.

25 OFFICER 1: Did he take your ID --

1 MALE SPEAKER 1: No, he didn't.

2 OFFICER 1: -- or your registration or license or  
3 insurance?

4 MALE SPEAKER 1: No. He didn't ask for my ID, he  
5 didn't ask -- and then after that, I was waiting to see if  
6 he was turning on the lights or anything. I don't know  
7 why, I don't know, I just made a stupid decision.

8 So when I was right here, I just turned around,  
9 you know, and went.

10 OFFICER 1: So the police officer -- the lights  
11 were still on the car?

12 MALE SPEAKER 1: No.

13 OFFICER 1: Oh, he turned the lights off.

14 MALE SPEAKER 1: The lights were off.

15 He didn't ask for anything.

16 OFFICER 1: So when he first pulled you over,  
17 though, the lights were on?

18 MALE SPEAKER 1: Yeah.

19 OFFICER 1: Okay. At what point did he turn the  
20 lights off?

21 MALE SPEAKER 1: When he stopped to get out of  
22 the car.

23 OFFICER 1: And you never gave him your ID?

24 MALE SPEAKER 1: He never asked for it.

25 OFFICER 1: And so he came up to you, he said,

1     hey, why you going so fast?

2             MALE SPEAKER 1:   Yeah.

3             OFFICER 1:   And what was your response?

4             MALE SPEAKER 1:   (Unintelligible).

5             OFFICER 1:   Be honest.   It's okay.

6             MALE SPEAKER 1:   It's not okay.

7             I said I had a couple drinks.

8             OFFICER 1:   Okay.   You told him that?

9             MALE SPEAKER 1:   Yeah.   I said I had a couple  
10    drinks.   I'm going -- I don't remember what he said, hold  
11    on or something, and he went back to his car and that's  
12    when I waited a little bit, like two or three minutes and  
13    then I was already scared because of what happened.

14            OFFICER 1:   Right.

15            MALE SPEAKER 1:   And I just turned.

16            Because it was right here, it was like --

17            OFFICER 1:   But he was still behind you and you  
18    don't remember him saying --

19            MALE SPEAKER 1:   No, I don't remember -- I didn't  
20    look back because I was nervous, but I was waiting there.  
21    I was just waiting to see if he was going to come out, for  
22    two or three minutes, and nothing happened.

23            OFFICER 1:   And then at that point you're like,  
24    hey, I'm getting out of here.

25            MALE SPEAKER 1:   And I just drove off.

1           OFFICER 1: Okay. You are not under arrest,  
2 okay? I am going to ask you to come back to the police  
3 station for like a formal, in-depth investigation.

4           MALE SPEAKER 1: Okay.

5           OFFICER 1: We'll take down information. Do you  
6 have access to your insurance information in the vehicle?

7           MALE SPEAKER 1: It's here.

8           OFFICER 1: Do you have the keys to the vehicle?

9           MALE SPEAKER 1: Yes.

10          OFFICER 1: Do you have them on you?

11          MALE SPEAKER 1: Yes.

12          OFFICER 1: Just keep them with you.

13          We're going to take the car back to the station.

14          MALE SPEAKER 1: What was that again? After --  
15 after the investigation, I'm going to have to pay?

16          OFFICER 1: Yes. To get the car out?

17          MALE SPEAKER 1: My mom is in Mexico.

18          She's not going to --

19          OFFICER 1: Can she send you a notarized letter  
20 saying, hey, I give my son or my grandson --

21          MALE SPEAKER 1: An email?

22          OFFICER 1: That's got to be note -- it's got to  
23 be notarized.

24          MALE SPEAKER 1: How am I going to get it?

25          OFFICER 1: If she can just overnight airmail it

1 to you. Just all we need is a letter from her, okay, with  
2 a copy of her license or ID card and it's got to be  
3 notarized. She sends that to us, and we can release the  
4 car to you.

5 MALE SPEAKER 1: A letter?

6 OFFICER 1: Yeah. That's -- right now, it's the  
7 least of your problems. We've got to get -- we'll get the  
8 insurance, we need to contact the people that you hit up  
9 in Pasadena, and just give them your insurance information  
10 and don't know -- I don't know what the report in Pasadena  
11 says yet, so we've got to get a copy of that and then I'll  
12 sit you down, I'll tell you everything that's going on.

13 MALE SPEAKER 1: Okay.

14 OFFICER 1: And then we'll go from there, okay?

15 MALE SPEAKER 1: Okay.

16 OFFICER 1: All right. So just sit tight right  
17 now and then we'll head back to the station. And we'll  
18 give you a ride. You're not going to be in cuffs, you're  
19 not going to be under arrest or anything.

20 MALE SPEAKER 1: (Unintelligible).

21 OFFICER 1: And then we'll take your statement  
22 and then we'll get you back here.

23 (End of recording.)

24 (02 Track 2)

25 OFFICER 1: Okay, this is Sergeant Cooper. Today



1 is January 31st -- hours -- 1506 [REDACTED] L Pass, case  
2 number 120284 and Pasadena's -- 12-564154. It was a hit  
3 and run collision reported to Pasadena PD, Tuesday the  
4 31st at approximately 0500 hours. South Pasadena got the  
5 call from Pasadena around -- about the circumstances --  
6 approximately that time Officer Pat Green conducted an  
7 enforcement stop of the suspect vehicle from the collision  
8 of 5 Young Mary -- Ford Explorer. Let's talk about --  
9 let's back it up. Where did you say it was?

10 MALE SPEAKER 1: It was on --

11 OFFICER 1: So explain to me what happened right  
12 before --

13 MALE SPEAKER 1: Well, I was going to go --

14 OFFICER 1: So let's fast forward a little bit.  
15 So you did ask the guy if he was okay?

16 MALE SPEAKER 1: Yes.

17 OFFICER 1: And what was his -- head forward?

18 MALE SPEAKER 1: He was like --

19 OFFICER 1: What did he look like?

20 MALE SPEAKER 1: (Unintelligible).

21 OFFICER 1: Black guy? White guy? Asian guy?

22 Right, so let's -- hold on for one second. Yeah,  
23 come on in. Okay, so let's fast forward to Fair Oaks and  
24 Rollin.

25 MALE SPEAKER 1: Yeah.

1           OFFICER 1: So you were stopped by one of our  
2 police officers.

3           MALE SPEAKER 1: Yeah.

4           OFFICER 1: From the time that the lights -- that  
5 you saw the lights in the rear view mirror, let's start  
6 right there, and then why don't you tell me what happened  
7 -- okay, we're good. I didn't pause it.

8           We kept it going.

9           MALE SPEAKER 1: Yes, since I was --

10          OFFICER 1: What time did you show up here?

11          MALE SPEAKER 1: I was --

12          OFFICER 1: And what had happened -- did you  
13 actually talk to an officer?

14          MALE SPEAKER 1: Yes.

15          OFFICER 1: You just talked to the cadet, that  
16 was it?

17          MALE SPEAKER 1: I just --

18          OFFICER 1: And that's the only person you talked  
19 to?

20          MALE SPEAKER 1: No, I talked to another person.

21          Before he came out and he said, yeah --

22          OFFICER 1: Okay. So other than what we've  
23 discussed about when you had -- officer.

24          MALE SPEAKER 1: Uh-huh.

25          OFFICER 1: And traffic collision, is there

1 anything -- could have been --

2 MALE SPEAKER 1: Problems about that. I saw the  
3 light --

4 OFFICER 1: First though, right?

5 MALE SPEAKER 1: Yeah.

6 OFFICER 1: All that damage to that vehicle  
7 occurred this morning --

8 MALE SPEAKER 1: Yeah.

9 OFFICER 1: -- once you got in the accident,  
10 right? Okay.

11 MALE SPEAKER 1: Well, the side --

12 OFFICER 1: Was there any prior existing damage  
13 is -- on what side? Other side?

14 MALE SPEAKER 1: Yeah. So the only thing that  
15 got damaged was --

16 OFFICER 1: Now, when you got in the accident in  
17 Pasadena, did he pull in front of you?

18 MALE SPEAKER 1: No, it was from behind.

19 OFFICER 1: Stopped or was he moving?

20 MALE SPEAKER 1: It was a red light.

21 OFFICER 1: So he was stopped at a red light?

22 MALE SPEAKER 1: Yeah.

23 OFFICER 1: You were coming up behind him?

24 MALE SPEAKER 1: Yeah.

25 OFFICER 1: You were going to the brakes and you

1 weren't able to stop -- coming in really helped us out,  
2 I'll tell you. [REDACTED] lives at [REDACTED]?

3 MALE SPEAKER 1: What, the landlord?

4 OFFICER 1: Lives upstairs in [REDACTED] and -- you and  
5 I will go out and we'll get your insurance information --  
6 my information and I'm going to give you reference too.

7 That's Tuesday, again 1/31. It's 2050 hours.

8 Concluding the interview.

9 (03 Track 3)

10 OFFICER 1: You can stop talking any time you  
11 want. Okay, all right, this is regarding case number --  
12 the South Pas case number is 12-0284. The Pasadena case  
13 number is 12-15641564. The date is February 1st, 0031  
14 hours. Location of the interview is in the office at  
15 South Pas of the -- Officer Green, badge number 167,  
16 currently assigned to -- digital recording. There is no  
17 taped -- number of the tape, it's just going to be digital  
18 recording -- Cooper currently assigned to patrol, badge  
19 number is 184. [REDACTED] is also here. He is the POA  
20 representative. His badge number is [REDACTED].

21 And this is regarding the nature of -- the  
22 investigation is dereliction of duty. The allegations in  
23 a few minutes. This is not a Lybarger or a Miranda  
24 situation, so neither of those advisements have been  
25 given. Okay, Pat, 0500 traffic on a black SUV at

1 Fair Oaks and -- you put out over the air was 5 Young Mary  
2 Tom. You conducted an enforcement stop.

3 Let's pick up from there, just right -- actually  
4 make the stop. Tell me what you did.

5 MALE SPEAKER 1: Let's go prior -- the rear --

6 OFFICER 1: The SUV?

7 MALE SPEAKER 1: The SUV.

8 OFFICER 1: Okay.

9 MALE SPEAKER 1: And I'm --

10 OFFICER 1: So he was speeding?

11 MALE SPEAKER 1: Yes.

12 OFFICER 1: Okay, so you --

13 MALE SPEAKER 1: So I slowed down, I lit 'em up  
14 at Monterey Road -- high school.

15 OFFICER 1: 925.

16 MALE SPEAKER 1: 925. So I was actually working.  
17 So he yields on Rollin and I -- so I basically got out of  
18 my police car, window was down. I said, hey, slow -- slow  
19 down, drive carefully, got back to my car and drove over  
20 to the high school -- to the junior high school. I drove  
21 around the back of it, the car was still there.

22 OFFICER 1: To the junior high?

23 MALE SPEAKER 1: The junior.

24 OFFICER 1: Did you put that out?

25 MALE SPEAKER 1: No. When you drive by

1 something, you still -- but that was bugging me more  
2 than --

3 OFFICER 1: Okay, all right -- I'm sorry, go  
4 ahead. Did you ask the driver of the SUV any questions?

5 MALE SPEAKER 1: No.

6 OFFICER 1: Walked up to him.

7 MALE SPEAKER 1: I didn't even walk up.

8 I went to -- no further.

9 OFFICER 1: And his window was down?

10 MALE SPEAKER 1: Yeah.

11 OFFICER 1: And did you yell at him?

12 MALE SPEAKER 1: I said, slow down, drive safe.

13 I got back to my car.

14 OFFICER 1: So you never got close enough to get  
15 a presence of alcohol or -- could you even describe him?  
16 If you saw him again, would you be able to identify him,  
17 if you saw him again? So then when you -- so basically --  
18 so you lit him up.

19 Did you use lights and siren or just lights?

20 MALE SPEAKER 1: Just lights.

21 OFFICER 1: The front of your car bumper?

22 MALE SPEAKER 1: Yeah.

23 OFFICER 1: 925.

24 MALE SPEAKER 1: Yes.

25 OFFICER 1: Okay. And then in the front and you

1 saw the window was down, and did you yell at him?

2 MALE SPEAKER 1: I just said, slow down and drive  
3 safe. I got back.

4 OFFICER 1: Now, when you got in your patrol car,  
5 did you back up? Did you make a turn?

6 MALE SPEAKER 1: Yes. I backed up, backed out on  
7 to Fair Oaks, because I was westbound.

8 OFFICER 1: So at any time did you drive on the  
9 front portion of the vehicle?

10 MALE SPEAKER 1: No.

11 OFFICER 1: Never saw the front portion of the  
12 vehicle?

13 MALE SPEAKER 1: No. He was already past me.

14 OFFICER 1: So when you were driving around the  
15 back, you saw -- southbound, you saw the taillights,  
16 that's when you hit him with the LiDAR?

17 MALE SPEAKER 1: Yeah.

18 OFFICER 1: And that's when you -- on the corner  
19 of Rollin and Fair Oaks?

20 MALE SPEAKER 1: Yes.

21 OFFICER 1: So you came up behind -- to your  
22 right, so you backed out?

23 MALE SPEAKER 1: Yes.

24 OFFICER 1: And then -- went across the street --

25 MALE SPEAKER 1: Right.

1           OFFICER 1: At no time did you actually drive by  
2 the front of his vehicle or see the front of his vehicle?

3           MALE SPEAKER 1: No.

4           OFFICER 1: That traffic stop was after the  
5 advisement of the Pasadena hit and run or before?

6           So your traffic stop was clear, you're checking  
7 to the 925 subjects. At any point after they put out  
8 the -- that vehicle was associated with that?

9           MALE SPEAKER 1: No, because he put 12 minutes,  
10 and in my mind --

11          OFFICER 1: And when you went over the air for  
12 this particular traffic stop, you put out the license  
13 plate, location and a little bit later you just put 1081.

14          You had a conversation with Corny later on about  
15 that vehicle, but he was asking you something about if you  
16 remember if that was -- if that could have been the car in  
17 the -- Pasadena. If you remember. If you don't --

18          MALE SPEAKER 1: I don't remember.

19          OFFICER 1: So you never got close enough that  
20 you could smell this guy?

21          MALE SPEAKER 1: I didn't even --

22          OFFICER 1: How about the vehicle? If you saw  
23 the vehicle again, would you be able to identify it, other  
24 than the plate number that you had? Okay.

25          Do you have any questions? Do you have anything



1 that you want to add, that we haven't covered?

2 MALE SPEAKER 1: No.

3 OFFICER 1: Okay. I'll put the whole picture  
4 together for you. What happened was is that notification  
5 from Pasadena came out. Then the stop with your vehicle,  
6 then --

7 MALE SPEAKER 1: What happened first? My stop?

8 OFFICER 1: I still have to check. I'm pretty  
9 sure it was the notification, stop, because Corny had  
10 drove by you and heard about that and saw your traffic  
11 stop and thought, oh, shit, that's the car.

12 He called dispatch and I guess during the  
13 conversation with dispatch, hey, I think Pat's got the  
14 car, you had cleared the stop.

15 MALE SPEAKER 1: Okay.

16 OFFICER 1: So the order of events right now,  
17 from preliminary looking at it, was the notification from  
18 Pasadena, traffic stop. Before you cleared, Corny called  
19 in saying, hey, yeah, Pat's got the car, and then you had  
20 gone 10-8. At any point did you hear the notification --

21 MALE SPEAKER 1: I was --

22 OFFICER 1: Now, I have to talk to Corny about  
23 clarifying that, because the only reason I know this was I  
24 got the voice print.

25 MALE SPEAKER 1: It would be nice if you said --

1 saw that you had mentioned that.

2 OFFICER 1: Something like this. Anyway, you  
3 gave him the plate number on the T stops to work it from  
4 the back end, but it was after the fact. So we're going  
5 to fast forward now. You go check out your 925. Calls in  
6 -- notification on the order. So then today at  
7 12:00 o'clock noon, this kid says, hey, I want to turn  
8 myself in. Well, here -- I'm sorry, 5:00 o'clock tomorrow  
9 afternoon. This is why we got to where we are today.

10 So -- and everyone -- comes in to me -- going on  
11 with this -- we don't even know what we have. Tells me  
12 what happens about this kid -- his mind -- because he  
13 was -- I went out and contacted -- I got there -- with his  
14 information he gave, coupled with your traffic stop but  
15 then called Pasadena to get their case number and you'll  
16 have to shoot down there and you obviously know the  
17 timeline and how he connected the dots.

18 MALE SPEAKER 1: Okay.

19 OFFICER 1: So the traffic stop came up. Us,  
20 obviously, administratively, is that this kid was --  
21 police and there was no -- he's telling me that you came  
22 up to the car, contacted him -- odor of alcohol and  
23 that -- from you and then all we heard on our end was,  
24 hey, traffic stop, hey, 10-8 warning.

25 Obviously we had an issue there.

1 MALE SPEAKER 1: He said I came up to the car?

2 OFFICER 1: He said the car and just did a hit  
3 and run and fled, and he said you came up to the car and  
4 then -- and then -- I'm going to bail and then takes off.

5 That was his story. So obviously we've got to  
6 cover our bases, to make sure that we -- why didn't you  
7 call us then and let us know, hey, when I told you --  
8 obviously, if you're going up to -- odor of alcohol, you  
9 blow it off and then the guy runs from you and then  
10 instead of chase -- that's all I need. I'm good.

11 So just to clarify, pulled up behind him, told  
12 the guy, hey, slow down.

13 MALE SPEAKER 1: Slow down.

14 OFFICER 1: Slow down and drive safe. The two  
15 925's were more of an issue for you at the time.

16 MALE SPEAKER 1: Right.

17 OFFICER 1: Backed up your vehicle -- or after  
18 your stop.

19 MALE SPEAKER 1: Okay.

20 OFFICER 1: All right. That's all I've got.

21 And you're clear on why.

22 MALE SPEAKER 1: Yeah, no, I appreciate it.

23 OFFICER 1: Obviously there was an issue.

24 MALE SPEAKER 1: Oh, yeah.

25 OFFICER 1: Concluded the interview, 1244 hours.

Case number 120284.

(End of recording.)

## C E R T I F I C A T E

I, TERRI NESTORE, Certified Shorthand Reporter/  
Transcriptionist, do hereby certify that I was authorized  
to transcribe the foregoing recorded proceeding, and that  
the transcript is a true and accurate transcription of my  
shorthand notes, to the best of my ability, taken while  
listening to the provided recording.

I further certify that I am not of counsel or  
attorney for either or any of the parties to said  
proceedings, nor in any way interested in the events of  
this cause, and that I am not related to any of the  
parties thereto.

Dated this 30th day of January, 2019.



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TERRI NESTORE, CSR 5614, RPR, CRR